338
Cm
21

LIQUOR LAWS

OF THE

UNITED STATES.

PROHIBITORY, LICENSE, LOCAL OPTION, TAX,
AND CIVIL DAMAGE LAWS.

NEW YORK:
NATIONAL TEMPERANCE SOCIETY AND PUBLICATION HOUSE, New York
58 READE STREET.

1883.

HV
5078
.N28

Gift
J H Russell
6-27-33

Mississippi Dem. Local op — 207

CONTENTS.

Iowa. Con. amend. — 205

Arkansas Dem. — Local option, 203.

	PAGE
Maine, 9000 Rep. Const. amend.	5
New Hampshire, 4000 Rep. Pro. Law.	25
Vermont, 27000 Rep. Pro. Law.	25
Massachusetts, 54000 Rep. Local option,	32
Rhode Island, 8000 R. Council May Grant or Refuse	60
Connecticut, 3000 R. Local option,	61
New York, 21000 R. 20 Petitions No two Licenses on Same Pet.	77
Amendments to the Law,	92
Landlord and Tenant Bill,	98
Civil Damage Law,	99
New Jersey, D. 3 Judges. May Grant License —	105 Local op in Places,
Pennsylvania, R. License.	137
Kentucky, 43000 Dem. Local option,	138
Tennessee, 32000 Dem (No License with 4 mo of	140 Schools,
Ohio, 27000 R. High License —	141
Michigan, 54000 R. High License & Damages —	152
Illinois, 41000 R. 500 Licens. option with board.	164
North Carolina, 9000 D. Local option,	170
South Carolina, 55000 Dem " "	172
Florida, D. Local op. Petitioner Publishing names	176
Texas, 93000 Dem Local option.	178
Kansas, R Con. amend.	181
Missouri, 55000 Dem. 2/3 Voters Must Petition,	191
Nebraska, R. 30 Petitioners. 500 License,	195
Other States,	202
Prohibition Constitutional,	208
School Laws of the United States,	210

6-11-43 D4

HCB

THE LIQUOR LAWS OF AMERICA.

MAINE.

CHAPTER 27 of the Revised Statutes refers to inn-holders, victuallers, and intoxicating liquors. Sections 14 to 22 refer to a State Agency for the sale of intoxicating liquors. The Governor appointed a commissioner to furnish municipal officers of towns with pure, unadulterated liquors for medicinal, mechanical, and manufacturing purposes. Section 22 commences with what is termed the "Maine Law." We give the law as amended Feb. 29, 1872.

SEC. 22. No person shall be allowed at any time to sell, by himself, his clerk, servant, or agent, directly or indirectly, any intoxicating liquors, except as hereafter provided. Ale, porter, strong beer, lager-beer, and all other malt liquors, wine, and cider, shall be considered intoxicating liquors within the meaning of this chapter, as well as all distilled spirits; but this enumeration shall not prevent any other pure or mixed liquors from being regarded as intoxicating.

SEC. 23. No person shall manufacture any intoxicating liquor for unlawful sale. Any manufacturer of intoxicating liquors shall be allowed to sell intoxicating liquors manufactured by him within this State to municipal officers authorized by law to purchase the same, provided he shall first give a bond in the sum of five thousand dollars, with good and sufficient sureties resident in this State, payable to the treasurer of the city or town within which the manufactory shall be established, or his successors, and shall file the same with such treasurer, and to the satisfaction and approval of the aldermen of such city, or the selectmen of such town, conditioned that he will not sell any intoxicating liquors except of his own manufacture; that he will not, by himself or another, in any mode adulterate such liquors, either by coloring

matter or any other drug or ingredient, nor mix the same with other liquor of different kind or quality, nor with liquor of any kind not manufactured by himself, nor with water; that all casks and vessels containing liquors sold by him shall at the time of sale be plainly and conspicuously marked with the name of the manufacturer, the place of manufacture, and the name, quality, and strength of the liquor; that he will not sell any intoxicating liquors in quantities less than thirty-gallons delivered in a single vessel, and carried away at one time; and that he will not sell any intoxicating liquors to any person except to such persons as are authorized by this chapter to purchase the same. The foregoing provisions shall not authorize the manufacture for sale of intoxicating liquors except pure rum and alcohol. The manufacture for sale of all other kinds of intoxicating liquors, except cider, is hereby prohibited, and any person convicted thereof shall be punished the same as is provided in the following section.

SEC. 24. Any person who shall sell within this State any intoxicating liquors manufactured by him within this State, without first giving the bond provided in the preceding section, shall be punished by imprisonment two months in the county jail and by fine of one thousand dollars; and if any person who has given such bond shall commit any breach of the conditions thereof, it shall be the duty of the aldermen and selectmen respectively of the city or town within which such manufactory shall be established to cause the same to be put in suit and prosecuted to final judgment and satisfaction.

SEC. 25. The provision of this chapter shall not extend to the manufacture and sale of unadulterated cider by the manufacturer, nor to the sale, by agents appointed under the provisions of this chapter, of pure wine for sacramental and medicinal uses.

SEC. 26. The selectmen of any town, and mayor and aldermen of any city, shall, on the first Monday of May, annually, or as soon thereafter as may be convenient, purchase such quantity of intoxicating liquors as may be necessary, to be sold under the provisions of this chapter, and shall appoint some suitable person as the agent of said town or city to sell the same at some convenient place within said town or city, to be used for medicinal, mechanical, and manufacturing purposes, and no other; and such agent shall receive such compensation for his services, and in the sale of such liquors shall conform to such regulations, not inconsistent with the provisions of law, as the board appointing him shall prescribe, and he shall hold his situation one year unless

sooner removed by them or their successors in office. Vacancies occurring during the year are to be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors, or in the profits of the sale thereof. Such agent may sell to such municipal officers intoxicating liquors, to be by said officers disposed of in accordance with the provisions of this chapter.

SEC. 27. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical, and manufacturing purposes only; but such certificate shall not be delivered to the person so appointed until he shall have executed and delivered to said board a bond, with two good and sufficient sureties, in the sum of six hundred dollars, in substance as follows:

Know all men, that we, ——, as principal, and ————, as sureties, are holden and stand firmly bound to the inhabitants of the town of——— (or city, as the case may be) in the sum of six hundred dollars, to be paid them, to which payment we bind ourselves, our heirs, executors, and administrators, firmly by those presents.

Sealed with our seals, and dated this —— day of ——, A.D.——.

The condition of this obligation is such that, whereas, the above bounden —— has been duly appointed an agent for the town (or city) to sell intoxicating liquors for medicinal, mechanical, and manufacturing purposes and no other, until the—— of —— A.D. ——, unless removed from said agency. Now, if the said —— shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such regulations as now are or shall be from time to time established by the board making the appointment, then this obligation to be void, otherwise to remain in full force.

SEC. 28. If any person, by himself, clerk, servant, or agent, shall at any time sell any intoxicating liquors in violation of the provisions of this chapter, he shall forfeit and pay on the first conviction a fine of thirty dollars and the costs of prosecution, or, instead of such fine, in the discretion of the court imposing sentence, shall be imprisoned in the county jail thirty days; on the second conviction, he shall pay twenty dollars and the costs of prosecution, and in addition thereto shall be imprisoned in the county jail sixty days; on the third and every subsequent conviction, he shall pay twenty dollars and the costs of prosecution,

and shall be imprisoned in the county jail three months, and, in default of the payment of the fines and costs prescribed by this section for the first conviction, the convict shall not be entitled to the benefit of chapter one hundred and thirty-five until he shall have been imprisoned two months ; in default of fines and costs provided for the second conviction, he shall not be entitled to the benefit of said chapter until he shall have been imprisoned three months ; and in default of payment of fines and costs provided for the third and every subsequent conviction, he shall not be entitled to the benefit of said chapter until he shall have been imprisoned four months. And if any clerk, servant, agent, or other person in the employment or on the premises of another shall violate the provisions of this section, or aid and assist therein, he shall be held equally guilty with the principal, and, on conviction, shall suffer like penalty.

SEC. 29. No person shall be a common seller of intoxicating liquors. Any person convicted of a violation of this section shall be punished by fine of one hundred dollars and costs of prosecu tion, and, in default of the payment thereof, he shall be imprisoned sixty days in the county jail, or instead of such fine he may be imprisoned in the county jail three months. On a second conviction and every subsequent conviction he shall be punished by a fine of two hundred dollars and costs of prosecution and imprisonment four months in the county jail, and, in default of the payment of the fine and costs, he shall be punished by four months' additional imprisonment.

SEC. 30. Persons selling by authority and according to the provisions of the twenty-third and twenty-sixth sections are not common sellers.

SEC. 31. No person shall keep a drinking-house and tippling-shop within this State. If any person shall sell any intoxicating liquors in any building, vessel, or boat in this State contrary to the provisions of law, and the same are there drunk, he shall be deemed and held to be guilty of keeping a drinking-house and tippling-shop. Any person convicted of keeping a drinking-house and tippling-shop within this State shall be punished by a fine of one hundred dollars and costs of prosecution, and, in default of payment thereof, by imprisonment in the county jail three months, or, instead of such fine, shall be imprisoned in the county jail three months on the first conviction, and on every subsequent conviction he shall be imprisoned six months in addi tion to the fine and costs.

SEC. 32. Every wife, child, parent, husband, or other person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, shall have a right of action in his or her own name against any person or persons who shall by selling or giving any intoxicating liquors, or otherwise, have caused or contributed to the intoxication of such person or persons; and in any such action the plaintiff shall have a right to recover actual and exemplary damages. And the owner or lessee, or person or persons renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein in violation of law, shall be liable, severally or jointly, with the persons so selling or giving intoxicating liquors as aforesaid. And in every action by any wife, husband, parent, or child, general reputation of the relation of husband and wife, parent, or child shall be *prima facie* evidence of such relation, and the amount recovered by every wife or child shall be his or her sole and separate property.

SEC. 33. No person shall deposit or have in his possession any intoxicating liquors with intent to sell the same in this State in violation of law, or with intent that the same shall be so sold by any person, or to aid or to assist any person in such sale.

SEC. 34. All intoxicating liquors kept and deposited in this State, intended for unlawful sale in this State, and the vessels in which they are contained, are hereby declared contraband and forfeited to the cities, towns, and plantations in which they are so kept at the time when they are seized by virtue of any of the provisions of this chapter. And in all cases where by any of the provisions of this chapter an officer is authorized to seize intoxicating liquors or the vessels containing them, by virtue of a warrant therefor, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

SEC. 35. If any person competent to be a witness in civil suits shall make complaint upon oath or affirmation before any judge of any municipal or police court, or trial justice, that he believes intoxicating liquors are unlawfully kept or deposited in any place in the State, by any person or persons, and that said liquors are intended for sale within this State in violation of law, such magistrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding such officer to search the premises described and specially designated in such complaint and

warrant, and, if said intoxicating liquors are there found, to seize the same with the vessels in which they are contained, and them safely keep until final action on the same, and make immediate return of said warrant. The name of the person so keeping, as aforesaid, said liquors, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he shall find said liquors, or shall have reason to believe such person has concealed them about his or her person, to arrest such person or persons, and have him or them forthwith before such magistrate for trial. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and such magistrate shall thereupon issue his warrant as provided in the first clause of this section. If upon trial the court, upon the evidence adduced, shall be of the opinion that the liquors were so as aforesaid kept and intended for unlawful sale by the person or persons named in said complaint, or by any other person or persons with his or their knowledge or consent, he or they shall be found guilty thereof, and sentenced to pay a fine of fifty dollars and costs of prosecution, and, in default of payment thereof, to be imprisoned thirty days in the county jail, or, instead of such fine, shall be imprisoned in the county jail three months.

SEC. 36. When liquors and vessels are seized as provided in the preceding section, it shall be the duty of the officer who made such seizure immediately to libel the liquors and the vessels so seized by him by filing with the magistrate before whom such warrant is returnable a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept, and intended for sale within the State in violation of law, and pray for a decree of forfeiture of said liquors and vessels, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of such libel to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized ten days at least before the day in which said libel is returnable.

SEC. 37. If no claimant shall appear, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the

city, town, or plantation in which they were seized. If any person shall appear and claim such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with such magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, and the time and place of the seizure, and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and monition, and also state his business and place of residence, and shall sign and make oath or affirmation to the truth of the same before said magistrate. If any person shall so make claim, he shall be admitted as a party to the process; and the said magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellants or claimants. If the magistrate shall, upon the hearing, be satisfied that the said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part of the same, he shall give to such claimant an order in writing, directed to the officer having the same in custody, commanding him to deliver to the said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand.

If the magistrate shall find the claimant entitled to no part of said liquors, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the city, town, or plantation where seized; the claimants may appeal, and shall be required to recognize with sureties as on appeals in civil causes from said magistrate.

SEC. 38. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint shall be made is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, and that said liquor is intended for sale in this State in violation of law.

SEC. 39. All liquors declared forfeited by any court by virtue of the provisions of this chapter shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to such court or magistrate. And such liquors shall be destroyed by pouring the same upon the

ground. All vessels forfeited under the provisions of law may be sold by said officers at public or private sale, and the proceeds thereof paid into the treasury of such city, town, or plantation.

SEC. 40. If complaint shall by any person be made upon oath to any magistrate against any person who is a claimant under the provisions of this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this State, either by such person or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and, if found guilty of the offence therein charged, he shall be punished by a fine of fifty dollars and costs of prosecution, and stand committed until the same be paid or he be otherwise discharged by due course of law, or, instead thereof, may be punished by imprisonment in the county jail three months on the first conviction, and on every subsequent conviction he shall be imprisoned three months in addition to fine and costs.

SEC. 41. If any officer having a warrant issued under this chapter committed to him directing him to seize any liquors and to arrest the owner or keeper thereof shall be prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial, and if on the trial it shall appear by competent testimony that such liquors were so poured out or destroyed, and that the liquors so poured out or destroyed were such as were described in the warrant, and they were so kept or deposited and intended for unlawful sale, and if the person so arrested shall be found to be owner or keeper thereof, he shall be fined and sentenced in the same manner as he would have been if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer.

SEC. 42. If any deputy sheriff, after having executed such a warrant by a seizure, shall die or go out of office before final execution in the proceedings be done, the liquors shall be held in the

custody of the sheriff or another deputy. If any other officer shall die or go out of office under like circumstances, it shall be the duty of the magistrate before whom the proceedings were commenced to designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

SEC. 43. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending ; and final judgment in the proceedings herein provided shall in all cases be a bar to all suits for the recovery of any liquors seized, or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

SEC. 44. All prosecutions against persons for manufacturing liquors in violation of law, for keeping drinking-houses and tippling-shops, and for being common sellers of intoxicating liquors, shall be by indictment ; and in all other prosecutions under this chapter, judges of municipal and police courts and trial justices shall have jurisdiction, by complaint, original and concurrent with the supreme judicial court. All prosecutions in the supreme judicial court shall be by indictment. The magistrates aforesaid, in cases not within their jurisdiction, may examine and hold to bail. And in all appeals from any judgment or sentence before any such magistrate, the penal sum in every recognizance shall be two hundred dollars. No recognizance before any such magistrate shall be in a less sum than two hundred dollars, nor in the supreme judicial court less than five hundred dollars.

SEC. 45. Every trial justice, recorder, and judge of a municipal or police court, and every county attorney, having knowledge of any previous conviction of any person accused of violating this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction therein, and, after an indictment in any such case is entered in court, no county attorney shall dismiss or fail to prosecute the same, except by special order of said court.

SEC. 46. When a person has been found guilty in the supreme judicial court of a violation of any of the provisions of this chapter relating to spirituous liquors, the county attorney shall have him sentenced at the same term, unless for reasons satisfactory to the court the case may be continued for sentence one term, but no longer.

SEC. 47. If any party shall appeal, the proceedings in all matters shall be the same in the appellate court as they would be upon the same matters in the court of the magistrate, and said proceedings shall be conducted in said court by the attorney for the State in the county where the proceedings are pending. The jury shall find specially, under the direction of the court, on all facts necessary to determine the adjudication of the court; and, if a claimant or other respondent shall fail to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. In case of appeal from a sentence of imprisonment under the twenty-eighth section, the penal sum of the recognizement shall be two hundred dollars; and in all other appeals from any other judgment or sentence of a magistrate in proceedings under this chapter relating to drinking-houses and tippling-shops, the penal sum of the recognizance shall be one hundred dollars. No portion of the penalty of any recognizance taken in such case shall be remitted by any court in any suit thereon, nor shall any surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance. The appeals of claimants provided for in the thirty-seventh section shall be entered as all other appeals in criminal cases, and subject to the same requirements of law appertaining to them.

SEC. 48. Custom-house certificates of importation and proofs of marks on the casks and packages corresponding thereto shall not be received as evidence that the identical liquors contained in said casks and packages were actually imported in said casks and packages in any proceedings under this chapter.

SEC. 49. Any person hereafter found intoxicated in any of the streets or highways, or being intoxicated in his own house, or in any other building or place, who shall become quarrelsome, or in any other way disturb the public peace, or that of his own or any other family, so as to render it necessary for the police or peace officers to interfere, may be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer, or watchman, and committed to the watch-house or restrained in some other suitable place till a complaint can be made and warrant issued in due form, upon which he may be arrested and tried, and, if found guilty of being intoxicated in the streets or highways, or of being intoxicated in his own house or any other building or place, and becoming quarrelsome and disturbing the public peace, or that of his own or any other family, he shall be

punished by imprisonment in the common jail not exceeding thirty days; but said judge or justice may remit any portion of said punishment, and order the prisoner discharged whenever he shall become satisfied that the objects of this law and the good of the public and the prisoner would be advanced thereby.

SEC. 50. No action shall be maintained upon any claim or demand, promissory note, or other security contracted or given for intoxicating liquors sold in violation of the provisions of this chapter, or for any such liquors purchased out of the State with intention to sell the same or any part thereof in violation of this chapter; but the provisions of this section shall not extend to negotiable paper in the hands of any holder for a valuable consideration and without notice of the illegality of the contract.

SEC. 51. No such liquors owned by any city, town, or plantation, or kept by any agent of any city, town, or plantation, as is provided by law, shall be protected against seizure and forfeiture, under the provisions hereof, by reason of such ownership, unless all the casks and vessels in which they are contained shall be at all times plainly and conspicuously marked with the name of such city, town, or plantation, and of its agent. When any such liquors shall be seized bearing such marks as are herein required to be upon liquors owned by cities, towns, or plantations, if such liquors are in fact not owned by any such city, town, or plantation, such false and fraudulent marking shall be conclusive evidence that the same are kept or deposited for unlawful sale, and render them liable to forfeiture under the provisions of this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious, and shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents, if so adulterated or made factitious and they have knowledge of the fact.

SEC. 52. No person authorized as aforesaid to sell intoxicating liquors shall sell such liquors to any minor without the direction in writing of his parent, master, or guardian, to any Indian, to any soldier in the army, to any drunkard, to any intoxicated person, or to any such persons as are described in the fourth section of the sixty-seventh chapter, as being liable to guardianship knowing them respectively to be of the condition herein prescribed, nor to any intemperate person of whose intemperate habits he has been notified by the relatives of such person, or by the aldermen, selectmen, or assessors, respectively, of any city, town, or plantation. And proof of notice so given by aldermen,

selectmen, or assessors, or by their authority, shall be conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this chapter; and notice so given by the relatives of such person shall be presumptive evidence of such habits.

SEC. 53. It shall be the duty of the aldermen, selectmen, and assessors aforesaid, whenever they shall be informed by the relatives of any person that he is of intemperate habits, and shall be satisfied that such is the fact, forthwith to give notice thereof to all persons authorized to sell intoxicating liquors within their respective cities, towns, and plantations, and in such adjoining places as they may deem expedient.

SEC. 54. Any person authorized as aforesaid who shall violate any of the provisions of section twenty-two shall be punished, on conviction thereof, by a fine of twenty dollars for every such offence, and shall also be liable, notwithstanding such conviction and punishment, to a suit upon his bond given as aforesaid; and it shall be the duty of the aldermen, selectmen, and assessors, respectively, of the city, town, or plantation to which such bond was given, to cause the same to be put in suit and prosecuted to judgment and satisfaction to the use of the city, town, or plantation. The court by which judgment shall be rendered upon any such bond, or upon any bond required to be given by the provisions of this chapter relating to spirituous liquors, shall have such chancery powers therein as the supreme judicial court now has in cases of forfeiture of penalties to the State. And whenever any such conviction shall be obtained or judgment recovered as aforesaid, all the authority of such person to sell intoxicating liquors shall be absolutely vacated; and it shall be the duty of the aldermen, selectmen, and assessors, respectively, to revoke such authority whenever they shall be satisfied of any violation of the conditions of the same.

SEC. 55. Whenever an unlawful sale is alleged, and a delivery proved, it shall not be necessary to prove a payment, but such delivery shall be sufficient evidence of sale. A partner in business shall be liable for the unlawful keeping or selling of his copartner done in the copartnership business, or by any other person in any shop, store, or any other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk and servant, may be all included in the same complaint and process. The mayor or aldermen, selectmen or assessors, may cause a suit to be commenced on any bond or recognizance

given under the provisions of this chapter relating to spirituous liquors, in which this city, town, or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. It shall also be the duty of the mayor and aldermen, selectmen, assessors, and constables, respectively, in every city, town, and plantation, to make complaint and to prosecute any violations of the said provisions of this chapter, and to promptly enforce the laws against drinking-houses. If any municipal officer of any city, town, or plantation, after being furnished with a written notice of a violation of any provisions of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offence, wilfully neglects or refuses to institute proceedings therefor, he shall be liable to a fine of not less than twenty nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be in substance that, from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true.

If any execution or other final process issued in any civil or criminal suit instituted under the said provisions of this chapter shall be placed in the hands of any proper officer to be by him executed, and he shall unreasonably neglect or refuse so to do, an action may be commenced against him by any voter in the county for such neglect, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it be a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty dollars nor more than five hundred dollars.

Selectmen of towns herein mentioned shall be construed to include assessors of plantations. The word town shall in all cases used herein be construed to include plantations.

In any suit, complaint, or indictment, or other proceeding against any person for a violation of any of the provisions of this chapter relating to spirituous liquors, other than for the first offence, it shall not be requisite to set forth particularly the record of a former conviction, but it shall not be sufficient to allege briefly that such person has been convicted of a violation of any particular provision or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment may be amended, without terms, and as a matter of right. Any process, civil

or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

SEC. 56. No person engaged in the unlawful traffic in intoxicating liquors shall be competent to sit upon any jury in any case arising under this chapter; and when information shall be communicated to the court that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall enquire of the juryman of whom such belief is entertained, and no answer which he shall make shall be used against him in any case arising under this chapter; but if he shall answer falsely, he shall be incapable of serving on any jury in this State; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a juryman.

SEC. 57. The forms herein set forth, with such changes as will adapt them for use in cities, towns, and plantations, shall be deemed sufficient in law for all the cases arising under the foregoing provisions to which they purport to be adapted; and the costs to be taxed and allowed for the libel shall be fifty cents; for entering the same, thirty cents; for trying the same, one dollar; for monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents.

The following law in relation to the duties of Sheriffs, etc., was adopted February 29, 1872, with but few dissenting voices:

AN ACT RELATING TO THE DUTIES OF SHERIFFS AND COUNTY ATTORNEYS.

Be it enacted, etc., as follows:

SEC. 1. It shall be the duty of sheriffs to obey all such orders and directions relating to the enforcement and execution of the laws of the State as they shall from time to time receive from the governor.

SEC. 2. It shall be the duty of sheriffs and their deputies diligently and faithfully to enquire into all violations of the laws of the State, within their respective counties, and to institute legal proceedings against violations or supposed violations of law, and particularly the laws against the illegal sale of intoxicating liquors, and the keeping of drinking-houses and tippling-shops,

gambling-houses or places, and houses of ill-fame, either by promptly entering a complaint before a magistrate competent to examine or try the offence charged, and execute such warrants as may be issued on such complaints, or by furnishing the county attorney promptly and without delay with the names of alleged offenders, and of the witnesses. For services under the provisions of this law, sheriffs and their deputies, acting under their directions, shall be entitled to the same per diem compensation as for attendance on the supreme judicial court, and the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as may be just and proper; bills for which shall be audited by the county commissioners, and paid from the county treasury.

SEC. 3. County attorneys shall cause to be summoned promptly before the grand jury of their several counties all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in Section 2 of this act, and shall faithfully direct enquiries before that body into violations of law, and shall prosecute persons indicted, and secure the prompt sentence of such as shall be convicted.

SEC. 4. Whenever the governor shall, after investigation, be satisfied that any sheriff or county attorney has wilfully refused or neglected to discharge the duties imposed upon each by this act, it shall be his duty to bring such fact to the attention of the Legislature at the earliest practical day.

[Approved February 29, 1872.]

The following is the full text of the amendment passed unanimously by the Legislature, and approved by the Governor February 9, 1877:

AN ACT TO AMEND CHAPTER 27 OF THE REVISED STATUTES RELATING TO DRINKING-HOUSES AND TIPPLING-SHOPS.

Be it enacted, etc., as follows:

SECTION 1. Section 22 of chapter 27 of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 22. No person shall be allowed at any time to sell, by himself, his clerk, servant, or agent, directly or indirectly, any intoxicating liquors, of whatever origin, except as hereinafter provided; wine, ale, porter, strong beer, lager-beer, and all other malt liquors, and cider, when kept or deposited with intent to sell the same for tippling purposes, as well as all other distilled spirits, shall be considered intoxicating within the meaning of this chapter; but this

enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating."

SEC. 2. Section 23 of the same chapter is hereby amended so as to read as follows :

"SEC. 23. Any person who shall manufacture for sale any intoxicating liquor, except cider, shall be punished as provided in section 24 of this chapter."

SEC. 3. Section 24 of the same chapter is hereby amended so as to read as follows :

"SEC. 24. Any person who shall sell any intoxicating liquors manufactured by him in this State, except cider, shall be punished by imprisonment two months in the county jail, and by fine of one thousand dollars, and stand committed till paid."

SEC. 4. On every subsequent conviction after the first offence described in section 35 of the same chapter the person or persons found guilty shall pay a fine of one hundred dollars and cost of prosecution, and stand committed until the same be paid ; and in addition thereto, shall be imprisoned in the county jail three months.

SEC. 5. Section 45 of the same chapter is hereby amended so as to read as follows :

"SEC. 45. Every trial justice, recorder, clerk, and judge of a municipal or police court, and every county attorney, having knowledge of any previous conviction of any person accused of violating this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction thereon ; and after an indictment in any such case is entered in court, no county attorney shall dismiss or fail to prosecute the same except by special order of said court. If any trial justice, recorder, clerk, or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney shall fail to prosecute as provided in this section, he shall forfeit one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney-general in behalf of the State."

SEC. 6. All acts or parts of acts inconsistent with this act are hereby repealed.

The following is an act amendatory of chapters 17 and 27 of the Revised Statutes in relation to common nuisances and the sale of intoxicating liquors. Approved March 19, 1880.

CHAPTER 247.

Be it enacted in the Senate and House of Representatives, in Legislature assembled, as follows:

SECTION 1. Section 1 of chapter 17 of the Revised Statutes is hereby amended by inserting after the word "liquors" the words, "and all places of resort where intoxicating liquors are kept, sold, given away, drank, or dispensed in any manner not provided for by law," so that the section as amended shall read as follows:

"SEC. 1. All places used as houses of ill-fame, resorted to for lewdness or gambling, for the illegal sale or keeping of intoxicating liquors, and all places of resort where intoxicating liquors are kept, sold, given away, drank, or dispensed in any manner not provided for by law, are common nuisances."

SEC. 2. Section 22 of chapter 27 of the Revised Statutes, as amended by chapter 215 of the public laws of 1877, is hereby further amended by inserting after the word "purposes" the words "or as a beverage," so that said section as amended shall read as follows:

"SEC. 22. No person shall be allowed at any time to sell, by himself, his clerk, servant, or agent, directly or indirectly, any intoxicating liquors, of whatever origin, except as hereinafter provided; wine, ale, porter, strong beer, lager-beer, and all other malt liquors, and cider when kept or deposited with intent to sell the same for tippling purposes, or as a beverage, as well as all other distilled spirits, shall be considered intoxicating within the meaning of this chapter; but this enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating."

SEC. 3. Section 25 of chapter 27 of the Revised Statutes is hereby amended by inserting after the word "case" the words "when sold in quantities of five gallons or upwards, delivered and taken away at one time," so that said section as amended shall read as follows:

"SEC. 25. The provisions of this chapter shall not extend to the manufacture and sale of unadulterated cider, in any case when sold

in quantities of five gallons or upwards, delivered and taken away at one time."

SEC. 4. Upon petition and representation of thirty or more well-known tax-payers in any county that the provisions of chapters 17 and 27 of the Revised Statutes, and acts additional thereto and amendatory thereof, are not faithfully enforced by county or local officers, it shall be the duty of the governor and council to enquire into such representations, and if, in their judgment, such representations are well founded, the governor, by and with the consent of the council, shall appoint two or more constables for such county, whose duty it shall be to diligently enforce the provisions of said chapters and acts, and for this purpose such constables shall have like powers and duties as sheriffs and deputies. For such services said constable shall receive the same compensation as is provided by law for sheriffs and deputies.

SEC. 5. To amend chapter 62 of the public laws, relating to sheriffs and county attorneys, by striking out section 4 of said chapter and substituting therefor the following: "Whenever the governor shall, after investigation and hearing of the parties, be satisfied that any county attorney has wilfully refused or neglected to discharge the duties imposed upon him by this act, it shall be his duty to remove such attorney from office, and fill his place by appointment."

SEC. 6. Section 49 of chapter 27 of the Revised Statutes, as amended by chapter 255 of the public laws of 1874, is hereby amended by adding after the last word in said section the following words—viz.: "But said punishment, or any part thereof, shall not be remitted unless the prisoner, under oath, gives information from whom and where he procured the liquors upon which he became intoxicated," so that said section as amended shall read as follows:

"SEC. 49. Any person hereafter found intoxicated in any streets or highways, or being intoxicated in his own house, or in any other building or place, who shall become quarrelsome, or in any other way disturb the public peace, or that of his own or any other family, so as to render it necessary for the police or peace officers to interfere, may be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer, or watchman, and committed to the watch-house, or restrained in some other suitable place, till a complaint can be made and warrant issued in due form, upon which he may be arrested and tried, and if found guilty of being intoxicated in the streets or highways, or of being intoxicated in his own house or any other building or place, and becoming quarrelsome and disturbing the public peace, or that of his own or any other family, he shall

be punished by fine not exceeding ten dollars, or by imprisonment in the common jail or house of correction not exceeding thirty days. For the second offence such person may be punished by fine not exceeding twenty dollars, or by imprisonment not more than ninety days. The judge or justice may remit any portion of said punishment and order the prisoner discharged whenever he shall become satisfied that the objects of this law and the good of the public and the prisoner would be advanced thereby. But said punishment, or any part thereof, shall not be remitted unless the prisoner, under oath, gives information from whom and where he procured the liquors upon which he became intoxicated."

SEC. 7. Section 35 of chapter 27 of the Revised Statutes is hereby amended by substituting the words "one hundred" for the word "fifty," in the twenty-ninth line; in the thirty-first line, by substituting the word "ninety" for the word "thirty," and adding after the word "jail" the words "at hard labor"; in the thirty-second line, by substituting the word "six" for the word "three," and by adding after the word "month," "at hard labor"; in the thirty-seventh line, by substituting the word "six" for the word "three," and adding after the word "months" the words "at hard labor," so that said section as amended shall read as follows:

"SEC. 35. If any person competent to be a witness in civil suits shall make complaint, upon oath or affirmation, before any judge of any municipal or police court or trial justice that he believes intoxicating liquors are unlawfully kept or deposited in any place in the State by any person or persons, and that said liquors are intended for sale within this State in violation of law, such magistrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding such officer to search the premises described and specially designated in such complaint and warrant, and if said intoxicating liquors are there found, to seize the same, with the vessels in which they are contained, and them safely keep until final action on the same, and make immediate return of said warrant. The name of the person so keeping as aforesaid said liquors, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he shall find said liquors, or shall have reason to believe such person has concealed them about his or her person, to arrest such person or persons and have him or them forthwith before such magistrate for trial. If the name of the person keeping such liquors is unknown to the complainant he shall so allege in his complaint, and such magistrate shall thereupon issue his warrant as provided in the first clause of this section. If upon trial, the

court, upon the evidence adduced, shall be of the opinion that the liquor was so as aforesaid kept and intended for unlawful sale by the person or persons named in said complaint, or by any other person or persons with his or their knowledge or consent, he or they shall be found guilty thereof, and sentenced to pay a fine of one hundred dollars and cost of prosecution, and in default of payment thereof to be imprisoned ninety days in the county jail, at hard labor, or instead of such fine shall be imprisoned in the county jail six months at hard labor. On every subsequent conviction after the first offence described in this section the person or persons found guilty shall pay a fine of one hundred dollars and costs of prosecution, and stand committed until the same be paid; and in addition thereto shall be imprisoned in the county jail six months at hard labor."

SEC. 8. This act shall take effect when approved.

ACT OF 1881.

An Act explanatory of Section 25 of Chapter 27 of the Revised Statutes, as amended by Section 3 of Chapter 247 of the Public Laws of 1880, in relation to the sale of cider.

Be it enacted in the Senate and House of Representatives, in Legislature assembled, as follows:

The provisions of section 25 of chapter 27 of the Revised Statutes, as amended by section 3 of chapter 247 of the public laws of 1880, shall not apply to the sale of unadulterated cider when sold in quantities of less than five gallons, unless the same is sold to be used as a beverage or for tippling purposes.

Approved March 17.

NEW HAMPSHIRE.

NEW HAMPSHIRE has a prohibitory law, under which the traffic in alcoholic liquors is illegal, excepting by duly appointed but not licensed agents. Neither the State nor any of its municipalities derive revenue from the sale of liquors. Efforts for a State constabulary force for the better enforcement of the prohibitory law have been unsuccessful.

VERMONT.

VERMONT has a prohibitory law, passed in 1852, which has been improved by various amendments adopted since that time. It is the settled policy of the State, and strong efforts are being made to secure the passage of the "State Police Bill," in order to secure its better enforcement. The following is from the Civil Damage Act of 1869:

"Whenever any person in a state of intoxication shall wilfully commit any injury upon the person or property of any other individual, any person, who, by himself, his clerk, or servant, shall have unlawfully sold or furnished any part of the liquor causing such intoxication, shall be liable to the party injured for all damage occasioned by the injury so done, to be recovered in the same form of action as such intoxicated person would be liable to, and both such parties may be prosecuted in the same action; and, in case of the death or disability of any person, either from the injury received as herein specified or in consequence of intoxication from the use of liquors unlawfully furnished as aforesaid, any person who shall be in any manner dependent on such injured person for means of support, or any party on whom such injured person may be dependent, may recover from the person unlawfully selling or furnishing such liquor as aforesaid all damage or loss sustained in consequence of such injury, in any court having jurisdiction in such cases; and coverture or infancy shall be no bar to proceedings for recovery in any case arising under this act."

The Legislature of 1876 enacted the following:

NO. 33.—AN ACT TO ABATE AND SUPPRESS NUISANCES.

It is hereby enacted, etc.:

SECTION 1. Every saloon, restaurant, grocery, cellar, shop, billiard-room, bar-room, and every drinking place or room used as a place of public resort, where spirituous or malt liquor or any kind of intoxicating drink is unlawfully sold, furnished, or given away, or kept for selling, furnishing, or giving away unlawfully, shall be held and regarded as a common nuisance, kept in violation of law.

SEC. 2. When, upon due trial, it shall be proved that any such liquor or intoxicating drink is kept for unlawful sale, furnishing, or giving away, or is unlawfully sold, furnished, or given away, in any such place of public resort as is named in the preceding section, the court having jurisdiction in the case shall adjudge such place to be a common nuisance, and the same shall be shut up and abated by the order of such court, in the manner and form hereinafter provided, and shall not be reopened by the person convicted as the keeper thereof until he shall file with such court a bond, with sufficient surety or sureties, payable to the treasurer of the State, in the sum of not less than three hundred dollars nor more than five hundred dollars, conditioned that he will not thereafter keep for unlawful sale, furnishing, or giving away, nor unlawfully sell, furnish, or give away, therein any such liquor or intoxicating drink as herein named. And if such person so convicted shall reopen or reoccupy such place before giving such bond, he shall be liable to a fine of ten dollars, payable to the State treasury, for each day in which he shall keep open such place before giving such bond, with costs of prosecution. And it shall be the duty of the State's attorney, whenever any bond provided for by this act shall be forfeited, to prosecute and recover the amount so forfeited on behalf of the State; and when such duty is neglected by the State's attorney for the county in which such forfeiture occurs, for six months after being notified of such forfeiture, any other person may institute proceedings for such recovery in an action of debt in the name of the State, and such person, upon recovery and the payment of such amount into the State treasury, shall be allowed one-half of the amount so recovered. And it shall be the duty of the grand jury of each county to enquire into and present to the county court all cases of violation of this act not otherwise proceeded against.

SEC. 3. Whenever any person is duly convicted of keeping and maintaining any such place or room used as a place of public resort, in which any such spirituous or malt liquor or any kind of in-

toxicating drink is unlawfully sold, furnished, or given away, or kept for unlawful sale, furnishing, or giving away, he shall be adjudged by the court before which he is so convicted to be guilty of keeping and maintaining a common nuisance, and upon any conviction of such offence he shall forfeit and pay into the State treasury a fine of not less than twenty dollars nor more than two hundred dollars, or he shall be liable to a fine of not exceeding twenty dollars and imprisonment in the county jail not less than one month nor more than three months, in the discretion of the court.

The bill then gives the forms necessary for the carrying out of the provision.

Another amendment authorizes the arrest of intoxicated persons and detention till sober, and that the persons so detained shall upon oath disclose where the liquor was obtained, and on refusal may be committed to jail.

The following act was passed by the Legislature and approved December, 1880:

An Act to Abate and Suppress Nuisances.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. Every saloon, restaurant, grocery, cellar, shop, billiard-room, bar-room, and every drinking place or room used as a place of resort, where intoxicating liquor is unlawfully sold, furnished, or given away, or kept for selling, furnishing, or giving away unlawfully, and every place or room used or resorted to for gambling, shall be held to be a common nuisance kept in violation of law.

SEC. 2. When, upon trial, it is proved that intoxicating liquor is kept for unlawful sale, furnishing, or giving away, or is unlawfully sold, furnished, or given away, in a place named in the preceding section, or that gambling is done in such place, the court shall adjudge such place to be a common nuisance, and the same shall be shut up and abated by order of the court; and the person keeping the same shall be adjudged by the court guilty of keeping and maintaining a common nuisance, and shall be fined not less than twenty dollars nor more than two hundred dollars, or he shall be liable to a fine not exceeding twenty dollars, and imprisonment not less than one month nor more than three months, in the discretion of the court.

SEC. 3. Upon the conviction of the respondent for keeping and maintaining such common nuisance the court shall, in addition to the ordinary mittimus in criminal cases, issue an order for the shutting up and abatement of such nuisance.

SEC. 4. The same place shall be again shut up and abated in the same manner on any subsequent conviction of any person of keeping the same as a common nuisance.

SEC. 5. The place so closed shall not be reopened by the person convicted as the keeper thereof until he files with the court a bond to the State, with sufficient surety or sureties, in the sum of not less than three hundred dollars nor more than five hundred dollars, conditioned that he will not thereafter keep for unlawful sale, furnishing, or giving away, nor unlawfully sell, furnish, or give away therein, intoxicating liquor, nor suffer gambling to be done therein. And if the person so convicted reopens or reoccupies such place before giving such bond, he shall be liable to a fine of ten dollars, payable to the State, for each day in which he keeps open such place before giving such bond, with costs of prosecution.

SEC. 6. The State's attorney, when such a bond is forfeited, shall prosecute and recover the amount so forfeited, on behalf of the State; and when such duty is neglected by the State's attorney for six months after being notified of such forfeiture, any other person may institute proceedings for such recovery in an action of debt in the name of the State, and such person, upon the recovery and the payment of such amount into the State treasury, shall be allowed one-half of the amount thereof.

SEC. 7. A person, being a tenant or occupant of a building or tenement not owned by him, who uses it or any part thereof for any purpose named in the first section of this act, shall forfeit his right thereto, and the owner thereof may make immediate entry without process of law, or may have the same action against such tenant or occupant for the possession that he might by law have against a tenant holding over after the expiration of a lease or after a breach in the conditions of a lease, or may enforce his right to the possession by any other proper lawful process, and may recover of such tenant all damages arising from the termination of such tenancy in an action on the case.

SEC. 8. A person who knowingly lets a building, tenement, place, or room owned by him, or under his control, for any of the purposes named in the first section of this act, or knowingly permits the same or part thereof to be so used, shall be fined not less than twenty dollars, nor more than two hundred dollars.

SEC. 9. Justices of the county shall have concurrent jurisdiction with the county court of offences under sections 2 and 5 and 8 of this act. All fines and penalties recovered under this act, except as herein provided, shall go to the State.

SEC. 10. Complaints relating to nuisances under section 1 of this act shall be substantially in the following form, and the same may

be amended in the discretion of the court, either in form or substance, at any stage of the proceedings :

State of Vermont, } To A. B., justice of the peace within and
county, ss. } for the county of , comes C. D., grand juror of the town (or city) of , in said county, and complains that E. F., of , in said county, heretofore, to wit, on the day of , A.D. , at , in said county, did unlawfully keep and maintain a certain place or room used as a place of resort, called and known as a [here give the name of the place or room, whether saloon, billiard-room, bar-room, or otherwise], situated [here give the location with reasonable certainty], in the town (or city) of , in said county, in which, then and there, intoxicating liquor was kept for unlawful sale, furnishing, or giving away [or was unlawfully sold, furnished, or given away, as the case may be], [or which was resorted to and used for gambling, as the case may be], to the common nuisance of all the good people of this State, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State. C. D., Grand Juror.

And the justice to whom the complaint is made shall certify thereon substantially as follows :

This complaint exhibited to me this day of , A.D. .
A. B., Justice of the Peace.

SEC. 11. The order mentioned in section 3 shall be substantially in the form following :

State of Vermont, } To any sheriff or constable in the State,
county, ss. } Greeting :

Whereas, E. F., of , in said county, was on the day of , A.D. , before the undersigned, a justice of the peace in said county, convicted of keeping and maintaining a place of resort, called and known as a [here describe the place, giving its name and location as in the complaint], which has been adjudged a common nuisance and ordered to be abated.

Now, therefore, by the authority of the State of Vermont, you are hereby commanded herewith to abate such nuisance, by shutting up the place aforesaid, upon giving the said E. F. reasonable notice to remove whatever goods and effects he may lawfully possess therein ; and upon shutting up such place you will post upon the door or main entrance to the same a notice in words as follows : "Closed against E. F., of , by order of A B., justice of the peace," and sign such notice in your official capacity. Hereof fail not, but of your doings hereon make due return according to law. Dated at , in said county, this day of , A.D. .

A. B., Justice of the Peace.

SEC. 12. The phrase "intoxicating liquor" where used in this act shall be held to include all spirituous intoxicating liquors, or mixed liquor of which a part is spirituous or intoxicating, all malt liquors, and lager-beer. The word "gambling" where used in this act shall be held to include all playing at cards, dice-tables, billiards, or any other game for money or other valuable thing.

SEC. 13. Number 33 of the acts of 1876 is hereby repealed, but nothing herein shall affect past offences or prosecutions therefor under said act, and this act shall take effect from its passage.

Approved December 21, 1880.

An act relating to payment of civil damage by venders of intoxicating liquor.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. Whenever any person is confined in jail, the house of correction, or State prison by reason of intoxication, or of any criminal act done while intoxicated, the wife of such person in her own name, and, in case such person has no wife, his minor child or children, may in an action on the case upon this statute recover of the person who by himself, clerk, servant, or agent illegally sold, furnished, or gave to such person any part of the intoxicating liquor upon which such person became intoxicated, the sum of one dollar per day for all the time such person may be thus confined, to be recovered at the end of such confinement or at the end of each month of such confinement.

SEC. 2. When any judgment is rendered by any court in an action founded on section 1 of this act, such court shall adjudge that the action was founded on tort, and that the cause of action arose from the wilful and malicious act or neglect of the defendant, and shall order that he be confined in close jail upon a close jail execution.

SEC. 3. This act shall take effect from its passage.

Approved December 24, 1880.

An act relating to intoxication.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. When a person is convicted of the crime of being found intoxicated or of intoxication, if the court before whom the conviction is had shall consider it advisable to put the respondent upon his good behavior, such court may delay issuing a mittimus against such respondent for such length of time as such court shall consider for

the best good of the public and the respondent, and if such court shall thereafter consider that the public good or the well-being of the respondent requires, he may issue a mittimus for the commitment of such respondent, and the mittimus so issued shall have all the force and be subject to the same provisions as if issued within twenty-four hours after the time of conviction, provided that such mittimus shall not issue unless issued within two years from such conviction.

SEC. 2. This act shall take effect from its passage.

Approved December 18, 1880.

MASSACHUSETTS.

The following are the statutes of Massachusetts pertaining to the liquor-traffic, as adopted by the Legislature of 1881, on the report of a special committee of recompilation and revision:

INTOXICATING LIQUORS.

[Pub. Stats. Chap. 100.]

SECTION 1. No person shall sell, or expose or keep for sale, spirituous or intoxicating liquor, except as authorized in this chapter; but nothing herein contained shall apply to sales made by a person under a provision of law requiring him to sell personal property, or to sales of cider and of native wines by the makers thereof, not to be drunk on their premises.

121 Mass. 352, 374, 377; 126 Mass. 248; 128 Mass. 75, 263, 414.

SEC. 2. Druggists and apothecaries may sell pure alcohol for medicinal, mechanical, or chemical purposes; they may also sell liquor of any kind, not to be drunk on their premises, under a license of the fourth class hereinafter mentioned; and shall not be subject to the second clause of section nine when the sale is made upon the prescription of a physician.

SEC. 3. Every druggist or apothecary licensed under the sixth class of section ten shall keep a book, and enter therein the date of every sale of liquor made by him, the person to whom sold, the kind, quantity, and price thereof, and the purpose for which it was sold, substantially in the following form:

Date.	Name.	Residence.	Kind and Quantity.	Purpose of Use.	Price.

The said book and the certificates provided for in said section shall at all times be open to the inspection of the mayor and aldermen, selectmen, overseers of the poor, sheriffs, constables, and justices of the peace in such city or town.

SEC. 4. Importers of liquor of foreign production imported under authority of the laws of the United States may own, possess, keep, or

sell such liquor in the original casks or packages in which it was imported, and in quantities not less than those in which the laws of the United States require such liquor to be imported; and, when sold, such liquor shall be as pure and unadulterated as when imported.

SEC. 5. In a city which at its annual municipal election, or in a town which at its annual meeting, votes to authorize the granting of licenses for the sale of intoxicating liquors, as hereinafter provided, licenses of the first five classes mentioned in section ten, and in any city or town licenses of the sixth class mentioned in said section, may be granted annually, by the mayor and aldermen of cities or the selectmen of towns, to persons applying therefor. Every license shall be signed by the mayor or the chairman of the selectmen, and by the clerk of the city or town by which it is issued, and shall be recorded in the office of such clerk, who shall be paid by the licensee one dollar for recording the same. It shall name the person licensed, shall set forth the nature of the license and the building in which the business is to be carried on, and shall continue in force until the first day of the May next ensuing, unless sooner forfeited or rendered void. The aldermen and selectmen respectively shall insert in the warrant for the annual municipal election or town-meeting an article providing for a vote upon the question, "Shall licenses be granted for the sale of intoxicating liquors in this city [or town]?" The vote shall be by separate ballot; and the ballot shall be "Yes" or "No" in answer to said question; and in taking said vote the check-list shall be used. The clerk of each city or town shall, within thirty days after such vote is taken, transmit a true statement thereof to the secretary of the commonwealth; and shall annually, in November, make a return to said secretary, showing the number of licenses of each class issued, the amount received for the same by classes, and the number revoked, if any.

119 Mass. 206; 126 Mass. 542.

SEC. 6. Notice of all applications for licenses shall be published in the following manner, at the expense of the applicant, to be paid in advance: namely, in the city of Boston by the police commissioners in two or more daily newspapers printed therein; and in other cities and towns by the mayor and aldermen and the selectmen respectively in such newspapers printed therein, and published at least once a week, as they may designate; or if no such newspaper is printed therein, then by posting such notice in some conspicuous place on the premises described in the application for the license, and in two or more places where public notices are usually posted in the neighborhood. Such notice shall set forth the name of the applicant in full, the class

of the license applied for, and a particular description of the premises on which the license is to be exercised, designating the building or part of a building to be used, and, if practicable, the street and number, and shall be published at least ten days before the licensing board acts thereon. If a license is granted without such previous publication, any citizen of the city or town within which such license is issued may make complaint before the police, district, or municipal court, or the trial justice having jurisdiction therein; and if after due hearing it appears that such notice was not given, the court or justice shall revoke the license, and notice thereof shall be sent to the board issuing the same.

SEC. 7. If before the expiration of the ten days following the publication of the notice, as required by the preceding section, the owner of any real estate adjoining the premises described in an application for a license to be exercised by a common victualler to sell liquors to be drunk on the premises notifies the licensing board in writing that he objects to the granting of the license, no license to sell intoxicating liquors to be drunk on said premises shall be granted. And in case such license is granted after such objection has been filed, the owner of any such real estate may apply to the police, district, or municipal court, or to any trial justice within whose jurisdiction the premises are situated, for a hearing in the case; and said court or trial justice, if it appears that due notice was given by the said owner of his objection to the granting of such license, shall revoke the license, and notice of such revocation shall be sent to the licensing board; and any city or town in which any such license has been so revoked shall refund to said licensee or his legal representatives the money expended by him for said license and his court fees and costs.

127 Mass. 138.

SEC. 8. The mayor and aldermen or the selectmen may at any time refuse to issue a license to a person whom they deem unfit to receive the same. But nothing herein shall be so construed as to compel said mayor and aldermen or selectmen to grant licenses.

SEC. 9. Each license shall be expressed, to be subject to the following conditions:

First, That the provisions in regard to the nature of the license, and the building in which the business may be carried on under it, shall be strictly adhered to.

Second, That no sale of spirituous or intoxicating liquor shall be made between the hours of twelve at night and six in the morning, nor during the Lord's Day, except that, if the licensee is also licensed as an innholder, he may supply such liquor to guests who have resorted to his house for food or lodging.

Third, That no liquor except such as is of good standard quality and free from adulteration shall be kept or sold on the premises described in the license.

Fourth, That no sale or delivery of liquor shall be made on the premises described in the license to a person known to be a drunkard, to an intoxicated person, or to a person who is known to have been intoxicated within the six months next preceding, or to a minor, either for his own use, the use of his parent or of any other person.

Fifth, That there shall be no disorder, indecency, prostitution, lewdness, or illegal gaming on the premises described in the license, or on any premises connected therewith by an interior communication.

Each license of the second, third, or fifth class shall be subject to the further condition that no spirituous or intoxicating liquor, except those the sale of which is allowed by the license, shall be kept on the premises described in the license. Each license of the first, second, and third classes shall be subject to the further condition that the licensee shall not keep a public bar, and shall hold a license as an innholder or common victualler; and shall specify the room or rooms in which such liquors shall be sold or kept by a common victualler. No person licensed as aforesaid, and not licensed as an innholder, shall keep, sell, or deliver any such liquors in any room or part of a building not specified in his license as aforesaid.

Sixth, That the license, or a copy thereof, certified by the clerk of the city or town by which it was issued, shall be displayed on the premises, in a conspicuous position, where it can easily be read.

Seventh, It shall be further expressed in each license that it shall be subject to a forfeiture, as herein provided, for breach of any of its conditions; and that, in case the licensee is convicted in a court of competent jurisdiction of having violated any of such conditions, his license shall thereupon become void.

119 Mass. 206; 126 Mass. 250.

SEC. 10. Licenses shall be of the following classes:

First Class.—To sell liquors of any kind to be drunk on the premises.

Second Class.—To sell malt liquors, cider, and light wines, containing not more than fifteen per cent. of alcohol, to be drunk on the premises.

Third Class.—To sell malt liquors and cider to be drunk on the premises.

Fourth Class.—To sell liquors of any kind not to be drunk on the premises.

Fifth Class.—To sell malt liquors, cider, and light wines, contain-

ing not more than fifteen per cent. of alcohol, not to be drunk on the premises.

Sixth Class.—Licenses to druggists and apothecaries to sell liquors of any kind for medicinal, mechanical, and chemical purposes only, and to such persons only as may certify in writing for what use they want it.

SEC. 11. The fees for licenses shall be as follows:

For a license of the first class, not less than one hundred nor more than one thousand dollars.

For a license of the second or third class, not less than fifty nor more than two hundred and fifty dollars.

For a license of the fourth class, not less than fifty nor more than five hundred dollars: *provided*, that a distiller who distils not over fifty barrels a year shall pay a license fee of fifty dollars, and one who distils over fifty barrels a year shall pay not less than three hundred nor more than five hundred dollars.

For a license of the fifth class, not less than fifty nor more than one hundred and fifty dollars: *provided*, that a brewer shall pay not less than two hundred nor more than four hundred dollars.

For a license of the sixth class, one dollar.

SEC. 12. The board granting a license may require the licensee to close permanently all entrances to the licensed premises other than those from the public street or streets upon which such premises are situated, and may so specify in the license; and in such case the construction or opening of any such entrance shall of itself make the license void. The board shall require the licensee to remove any screen, blind, shutter, curtain, partition, or painted, ground, or stained glass window, or any other obstruction which may interfere with a view of the interior of the licensed premises. No such licensee shall place or maintain, or permit to be placed or maintained, upon any premises used by him for the sale of spirituous or intoxicating liquor under the provisions of his license, any screen, blind, shutter, curtain, partition, or painted, ground, or stained glass window or any other obstruction, or shall expose in any window upon said premises any bottle, cask, or other vessel containing, or purporting to contain, intoxicating liquor, in such way as to interfere with a view of the business conducted upon the premises, *or with a view of the interior of said premises; and the placing or maintaining of any of said obstructions shall of itself make the license void.*

SEC. 13. No license shall be issued until the license fee has been paid to the treasurer of the city or town by which it is to be issued, and until he has received a satisfactory bond, payable to him as such treasurer, in the sum of one thousand dollars, signed by the licensee and sufficient surety or sureties, who shall be jointly and severally

liable, and conditioned for the payment of all costs, damages, and fines incurred by violation of the provisions of this chapter. Separate suits may be brought on such bond by any persons at their own expense. Such bond, after approval, shall be filed in the office of the city or town clerk, and may be sued in any court having jurisdiction under the provisions of this chapter; and a certified copy thereof shall be admissible in evidence, and shall have the same force and effect as the original bond would have if offered in evidence. *No bond given under the provisions of said chapter shall be accepted or approved until each surety has made and subscribed a sworn statement that he is worth not less than two thousand dollars, over and above all liabilities and indebtedness; and the statement so made shall designate sufficient property, real or personal, to cover the requirement of the bond, and shall be kept on file with the bond in connection with which said statement is made.*

The bond to be taken in each case may be in the following form:

KNOW ALL MEN BY THESE PRESENTS, that we, A B, of , as principal, and C D and E F, of , as sureties, are held and firmly bound unto the treasurer of the city (or town) of , in the sum of one thousand dollars, to which payment well and truly to be made we bind ourselves and our legal representatives.

Sealed with our seals this day of , A.D. 18 .

The condition of this obligation is such that whereas the above bounden A B has this day been licensed by License No. , by the mayor and aldermen of the city of (or the selectmen of the town of) , in the county of , now if the said A B shall well and truly comply with all the provisions of law under which said license is issued, and shall also pay all damages which may be recovered from him under and pursuant to such provisions of law, then this bond shall be void; but otherwise in force.

Executed in presence of

127 Mass. 497.

NOTE.—The words in italics, in the two sections above, were added by the last legislature. (Acts of 1882, chap. 259, sects. 1–3.)

SEC. 14. The treasurer of a city or town shall pay to the treasurer of the commonwealth one-fourth of all moneys received by him for licenses within one month after he receives the same.

SEC. 15. The mayor and aldermen of a city, the selectmen of a town, or any police-officer or constable specially authorized by either of them, may at any time enter upon the premises of any person licensed under this chapter to ascertain the manner in which such person conducts his business, and to preserve order. And such police-officer or constable may at any time take samples for analysis from any liquors kept on such premises; and the vessel or vessels containing such samples shall be sealed on the premises by the seal of the vender, and shall remain so sealed until presented to the as-

sayer for analysis. The city or town shall pay for the samples so taken, if such liquors are found to be of good quality and free from adulteration.

123 Mass. 420; 126 Mass. 269.

SEC. 16. The mayor and aldermen of the city or the selectmen of the town by which a license has been issued, after notice to the licensee and reasonable opportunity for him to be heard by them, or by a committee of their number, may declare his license forfeited, upon proof satisfactory to them that he has violated or permitted to be violated any condition thereof. The pendency of proceedings before a court of justice shall not suspend or interfere with the power herein given to decree a forfeiture. If the license is declared to have been forfeited, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so forfeited; and if the licensee is the owner of said premises no license shall be issued to be exercised on the premises described in such forfeited license for the residue of the term thereof.

119 Mass. 109; 128 Mass. 76.

SEC. 17. No person shall bring into a city or town in which licenses of the first five classes are not granted any spirituous or intoxicating liquor, with intent to sell the same himself, or to have the same sold by another, or having reasonable cause to believe that the same is intended to be sold in violation of law; and any liquor transported contrary to the provisions of this section shall be forfeited to the commonwealth; but this section shall not apply to the transportation of spirituous liquor through a town to a place beyond.

SEC. 18. Whoever violates any provision of his license or of this chapter shall be punished by fine of not less than fifty nor more than five hundred dollars, or imprisonment for not less than one nor more than six months, or by both such fine and imprisonment. A licensed person who violates any provision of his license shall, in addition to said penalties, forfeit his license, and be disqualified to hold a license for the period of one year after his conviction; and, if the licensee is the owner of said premises, no license shall be exercised on the premises described in the forfeited license during the residue of the term thereof. The mayor and aldermen of cities and the selectmen of towns shall prosecute to final judgment all violations of this section.

127 Mass. 497.

SEC. 19. When a person holding a license for the sale of intoxicating liquors is convicted of the violation of any law relating to the business he is licensed to pursue, the court in which, or the magis-

trate before whom, such conviction is had shall send to the board which issued the license a certificate under seal, showing the time and place of such conviction.

SEC. 20. When a person is convicted of the illegal keeping or sale of intoxicating liquor, the court in which, or the magistrate before whom, such conviction is had shall issue and cause to be served upon the owner of the building used for such illegal keeping or sale, if such owner resides within the jurisdiction of such court or magistrate and is not the person so convicted, a written notice that the tenant of said building has been convicted as aforesaid; and a return of the same shall be made to the court or magistrate issuing it; which notice, so served, shall be deemed to be due and sufficient notice, under the provisions of section nine of chapter one hundred and one.

SEC. 21. Every husband, wife, child, parent, guardian, employer, or other person, who is injured in person, property, or means of support by an intoxicated person or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who, by selling or giving intoxicating liquor, have caused in whole or in part such intoxication; and any person or persons owning, renting, leasing, or permitting the occupation of any building or premises, and having knowledge that intoxicating liquor is to be sold therein, or who, having leased the same for other purposes, shall knowingly permit therein the sale of any intoxicating liquor, shall, if any such liquor sold or given therein causes in whole or in part the intoxication of a person, be liable severally or jointly with the person or persons selling or giving intoxicating liquor as aforesaid for all damages sustained; and the same may be recovered in an action of tort: *provided*, that no lessor of real estate shall be liable for such damages if the occupant holds a license for the sale of such liquor; and *provided*, further, that no owner or lessor of any building or premises held under lease on the thirtieth day of April in the year eighteen hundred and seventy-nine shall be liable, under the provisions of this section, for any damage resulting from the lawful sale or giving away of spirituous or intoxicating liquor on said premises during the term of such lease. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use; and all damages recovered by a minor shall be paid either to such minor or to such person in trust for him, and on such terms, as the court may direct. In case of the death of either party, the action and right of action shall survive to or against his executor or administrator. The party injured, or his or her legal representative, may bring either a joint action against

the person intoxicated and the person or persons who furnished the liquor, or a separate action against either.

SEC. 22. An owner or lessor of real estate who pays money, on account of his liability incurred under this chapter, for an act of his tenant, may, in an action of contract, recover of such tenant the money so paid.

SEC. 23. If a judgment recovered under the provisions of section twenty-one against a licensed person remains unsatisfied for the period of thirty days after the entry thereof, the board granting such license shall revoke the same; and no license shall be granted to a person against whom such judgment has been recovered until the same is satisfied.

SEC. 24. Whoever, by himself or his agent or servant, sells or gives intoxicating liquor to a minor, or allows a minor to loiter upon the premises where such sales are made, shall forfeit one hundred dollars for each offence, to be recovered by the parent or guardian of such minor in an action of tort.

124 Mass. 277, 578; 128 Mass. 313.

SEC. 25. The husband, wife, parent, child, guardian, or employer of a person who has or may hereafter have the habit of drinking spirituous or intoxicating liquor to excess, may give notice in writing, signed by him or her, to any person, requesting him not to sell or deliver such liquor to the person having such habit. If the person so notified at any time within twelve months thereafter sells or delivers any such liquor to the person having such habit, or permits such person to loiter on his premises, the person giving the notice may, in an action of tort, recover of the person notified such sum, not less than one hundred nor more than five hundred dollars, as may be assessed as damages: *provided*, that an employer giving such notice shall not recover unless he is injured in his person or property. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use. In case of the death of either party, the action and right of action shall survive to or against his executor or administrator.

128 Mass. 289.

SEC. 26. The delivery of intoxicating liquor in or from a building, booth, stand, or other place, except a private dwelling-house, or in or from a private dwelling-house if any part thereof or its dependencies is used as an inn, eating-house, or shop of any kind, or other place of common resort, such delivery in either case being to a person not a resident therein, shall be *prima facie* evidence that such delivery is a sale.

SEC. 27. Ale, porter, strong beer, lager-beer, cider, all wines, and

any beverage containing more than three per cent. of alcohol, by volume, at sixty degrees Fahrenheit, as well as distilled spirits, shall be deemed to be intoxicating liquor within the meaning of this chapter.

SEC. 28. The powers and duties given to and imposed upon the mayor and aldermen of cities by this chapter shall be exercised in the city of Boston by the board of police commissioners; and in any other city of the commonwealth said powers and duties may be exercised by a board of license commissioners, if the city council of such city so determines; and such board shall consist of three inhabitants of said city, to be appointed by the mayor and confirmed by the city council thereof, and shall hold office until the first day of May next after their appointment, or until their successors are appointed and confirmed, and shall receive such compensation as the city council may determine.

SEC. 29. The governor, with the advice and consent of the council, shall annually appoint and commission a competent person as an inspector and assayer of liquors. Such person, before receiving his commission, shall file in the office of the treasurer of the commonwealth a bond to the commonwealth in the penal sum of five thousand dollars, with two or more sureties to be approved by the treasurer, for the faithful performance of the duties of his office. He shall receive an annual salary of five hundred dollars, payable quarterly, on the first days of January, April, July, and October; and shall inspect and analyze all liquors sent to him by the mayor and aldermen of any city or the selectmen of any town, or the board of police commissioners of the city of Boston, or by license commissioners appointed under the preceding section; and return to such mayor and aldermen, selectmen or commissioners, as soon as may be, a written statement signed by him of the results of such inspection and analysis. Such statement shall be presumptive evidence of the composition and quality of the liquors to which it relates.

SEC. 30. If two persons of full age and competent to testify make complaint under oath or affirmation before a trial justice, or a police district or municipal court that they have reason to believe, and do believe, that any spirituous or intoxicating liquor, described in the complaint, is kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel, or place, and is intended for sale contrary to law, or has been brought into a town or city in violation of the provisions of section seventeen, such trial justice or court, upon its appearing that there is probable cause to believe said complaint to be true, shall issue a warrant of search to any sheriff, deputy-sheriff, city marshal, chief of police, deputy-chief of police, deputy-marshal, police-officer or constable, commanding

him to search the premises in which it is alleged such liquor is deposited, and to seize such liquor, with the vessels in which it is contained, and securely keep the same until final action is had thereon, and return the warrant with his doings thereon, as soon as may be, to the same or some other trial justice or court having jurisdiction in the place where such liquor is alleged to be kept or deposited.

122 Mass. 36; 128 Mass. 72.

SEC. 31. No warrant shall issue for the search of a dwelling-house, if no tavern, store, grocery, eating-house, or place of common resort is kept therein, unless one of the complainants makes oath or affirmation that he has reason to believe and does believe that such liquor has been sold therein or taken therefrom for the purpose of being sold by the occupant or by his consent or permission contrary to law, within one month next before making such complaint, and is then kept therein for sale contrary to law by the person complained against. Such complainant shall in his oath or affirmation state the facts and circumstances on which such belief is founded, and such allegations shall be recited in the complaint and warrant.

122 Mass. 14.

SEC. 32. In all cases the complaint shall particularly designate so as to identify the building, structure, and place to be searched, the liquor to be seized, the person by whom it is owned, kept, or possessed, and intended for sale, and shall allege the intent of such person to sell the same contrary to law. The warrant shall be supported by the oath or affirmation of the complainants, and shall allege that probable cause has been shown for the issuing thereof; and the place to be searched, the liquor to be seized, and the person believed to be the owner, possessor, or keeper of such liquor, intending to sell the same contrary to law, shall be set out therein by special designation and with the same particularity as in the complaint; and the offence both in the complaint and warrant shall be fully, plainly, and substantially described, and the complainants shall be summoned to appear as witnesses.

SEC. 33. The officer to whom the warrant is committed shall proceed to search the premises and seize the liquor described in the warrant, with the casks or other vessels in which it is contained, if they are found in or upon said premises, and shall convey the same to some place of security, where he shall keep the liquor and vessels until final action is had thereon.

SEC. 34. If, in the opinion of the trial justice or court before which the warrant is returned, the value of the liquor seized, with the vessels containing it, does not exceed fifty dollars, a written notice, under seal, and signed by the trial justice, or by the justice or the

clerk of said court, shall be issued within twenty-four hours after such seizure, commanding the person complained against as the keeper of the liquor seized, and all other persons claiming any interest therein, or in the casks or vessels containing the same, to appear before said trial justice or court, at a time and place therein named, to answer to said complaint, and show cause, if any they have, why such liquor, with the vessels containing it, should not be forfeited.

SEC. 35. The notice shall contain a description of the number and kind of vessels, the quantity and kind of liquor seized, as nearly as may be, and shall state when and where they were seized. It shall be served by a sheriff, deputy-sheriff, constable, or police-officer upon the person charged with being the keeper thereof, by leaving an attested copy of the same with him personally or at his usual place of abode, if he is an inhabitant of this State, and by posting up an attested copy on the building in which the liquor was seized, if it was found in a building, otherwise in some public place in the city or town where the liquor was seized. The posting up of the notice, and the serving of the same on the party complained of as keeper, shall not be less than fourteen days before the time appointed for the trial.

SEC. 36. If, at the time appointed for trial, said notice has not been duly served, or other sufficient cause appears, the trial may be postponed to some other day and place, and such further notice issued as shall supply any defect in the previous notice ; and time and opportunity for trial and defence shall be given to persons interested.

SEC. 37. At the time and place designated in the notice the person complained against, or any person claiming an interest in the liquor and vessels seized, or any part thereof, may appear and make his claim verbally or in writing, and a record of his appearance and claim shall be made, and he shall be admitted as a party on the trial. Whether a claim as aforesaid is made or not, the trial justice or court shall proceed to try, hear, and determine the allegations of such complaint, and whether said liquor and vessels, or any part thereof, are forfeited. If it appears that the liquor, or any part thereof, was at the time of making the complaint owned or kept by the person alleged therein, for the purpose of being sold in violation of law, the trial justice or court shall render judgment that such and so much of the liquor so seized as was so unlawfully kept, and the vessels in which it is contained, shall be forfeited to the commonwealth.

SEC. 38. Any liquor so forfeited shall, by the authority of the written order of the trial justice or court, be delivered to the chief of

the district police. Said officer shall sell the same, and pay over the net proceeds to the treasurer of the commonwealth.

SEC. 39. If it is not proved on the trial that all or part of the liquor seized was kept or deposited for sale contrary to law, the trial justice or court shall issue a written order to the officer having the same in custody to return so much thereof as was not proved to be so kept or deposited, with the vessels in which it is contained, to the place as nearly as may be from which it was taken, or to deliver the same to the person entitled to receive it; which order the officer, after executing the same, shall return to the trial justice or court with his doings endorsed thereon.

SEC. 40. If no person appears and is admitted as a party as aforesaid, or if judgment is rendered in favor of all the claimants who appear, the cost of the proceedings shall be paid as in other criminal cases. If only one party appearing fails to sustain his claim, he shall pay all the costs except the expense of seizing and keeping the liquor, and an execution shall be issued against him therefor. If judgment is rendered against two or more claimants of distinct interests in the liquor, the costs shall, according to the discretion of the trial justice or court, be apportioned among such parties, and executions shall be issued against them severally. If such execution is not forthwith paid, the defendant therein named shall be committed to the jail, and shall not be discharged therefrom until he has paid the same and the costs of commitment, or until he has been imprisoned thirty days.

SEC. 41. A person claiming any such liquor, whose claim is not allowed as aforesaid, and the person complained against, shall each have the same right of appeal, and to the same court, as if he had been convicted of a crime; but before his appeal is allowed he shall recognize to the commonwealth in the sum of two hundred dollars, with good and sufficient surety or sureties, to prosecute his appeal at the court appealed to, and to abide the sentence of the court thereon; and upon such appeal any question of fact shall be tried by a jury. On the judgment of the court after verdict whether of forfeiture of the whole or any part of the liquor and vessels seized or otherwise, similar proceedings shall be had as are directed in the four preceding sections.

SEC. 42. If, in the opinion of the trial justice or court before which a warrant is returnable under which liquor has been seized, the value of the liquor seized with the vessel containing it exceeds fifty dollars, a notice shall be issued and served as directed in sections thirty-four and thirty-five, except that the same shall be made returnable to the term of a superior court to be held in the county next after the expiration of fourteen days from the time of issuing

the notice. The court before which the notice is made returnable shall have jurisdiction of the case, and may proceed therein in the manner directed in sections thirty-six to forty inclusive, as nearly as may be, and with a jury, upon any issue of facts presented by the claimant or directed by the court.

SEC. 43. A mayor, alderman, selectman, deputy-sheriff, chief of police, deputy-chief of police, city marshal, deputy or assistant marshal, police-officer, or constable, in his city or town, may without a warrant arrest any person whom he finds in the act of illegally selling, transporting, distributing, or delivering intoxicating liquor, and seize the liquor, vessels, and implements of sale in the possession of such person, and detain them in some place of safe-keeping until warrants can be procured against such person, and for the seizure of said liquor, vessels, and implements, under the provisions of this chapter. The several officers aforesaid shall enforce or cause to be enforced the penalties provided by law against every person guilty of a violation of any law in relation to the sale of intoxicating liquor of which they can obtain reasonable proof. If a sheriff, deputy-sheriff, chief of police, deputy-chief of police, constable, or police-officer, after being furnished with a written notice of a violation of the law in relation to the sale of intoxicating liquor, and the names of the witnesses, for two weeks neglects to institute proceedings thereon, any person who thereafter makes complaint shall be entitled to all fines imposed and collected for said violation.

SEC. 44. All intoxicating liquors kept for sale, and the implements and vessels actually used in selling and keeping the same, contrary to law, are declared to be common nuisances.

SEC. 45. In any city or town in which the inhabitants vote, as provided in section five, that licenses shall not be granted, all buildings or places therein used by clubs for the purpose of selling, distributing, or dispensing intoxicating liquor to their members or others shall be deemed common nuisances; and whoever keeps or maintains, or assists in keeping or maintaining, such a common nuisance shall be punished by fine of not less than fifty nor more than one hundred dollars, and by imprisonment in the house of correction for not less than three nor more than twelve months.

SEC. 46. The following forms may be used in prosecutions under this chapter, and if substantially followed shall be deemed sufficient fully and plainly, substantially and formally, to describe the several offences in each of them set forth, and to authorize the lawful doings of the officers acting by virtue of the warrants issued in substantial conformity therewith; but this shall not be so construed as to prohibit the use of other suitable forms.

Form of Complaint to search for Intoxicating Liquors.

COMMONWEALTH OF MASSACHUSETTS.

M , ss.

To N. C., Esq., a trial justice within and for the county of M .

J. S. and L. P., both of B , in said county of M , and both being of full age, and competent to testify, in behalf of the commonwealth of Massachusetts, on oath complain that they have reason to believe, and do believe, that intoxicating liquors, to wit [here describe the liquors, as a certain quantity of rum, being about, and not exceeding, gallons; a certain quantity of gin, being about, and not exceeding, gallons, etc., according to the facts], on the day of , in the year eighteen hundred and , were and still are kept and deposited by D. E., of said B , in a certain , situate [here describe the building or other place, with particulars of its location sufficient to identify it] in said B , and occupied by said D. E., and which liquors are intended by said D. E. for sale in this commonwealth, said D. E. not being authorized to sell the same in this commonwealth, or keep the same for sale, for any purpose, by any legal authority whatever, against the peace of the commonwealth and the form of the statute in such case made and provided; and said complainants pray for a warrant to search said , described as aforesaid, for said liquors, and that the same may be declared to be forfeited, and that said D. E., and all other persons claiming an interest in said liquors, may be summoned to appear before said trial justice, or some other trial justice or court having jurisdiction of the case, to show cause, if any they have, why said liquors should not be declared forfeited. [If the place intended to be searched is a dwelling-house, and no tavern, store, grocery, eating-room, or place of common resort is kept therein, the complaint should conclude as follows:]

[And I, J. S., one of the above complainants, on oath say that I have reason to believe, and do believe, that intoxicating liquor, such as is above mentioned, has been sold in the house above mentioned [or has been taken from the house above mentioned for the purpose of being sold], by the occupant of said house, or with the consent and permission of the occupant of said house, contrary to law, within one month next before this day, and that said liquor above mentioned is now kept in said house for sale by D. E., contrary to law; and my belief aforesaid is founded on the following facts and circumstances:]

[Here let such facts and circumstances be stated.] J. S.
L. P.

Received and sworn to at said B , before me, this day of , in the year eighteen hundred and ; and it appears to me that there is probable cause to believe the foregoing complaint to be true. N. C., *Trial Justice.*

Form of Warrant to search for and seize Liquors unlawfully kept for Sale.

COMMONWEALTH OF MASSACHUSETTS.

M , ss.

[L. S.] To the sheriff of our county of M , or either of his deputies, or any constable of the town of B , in said county, *Greeting:*

Whereas J. S. and L. P., both of said B , and both of full age, and competent to testify, on the day of , in the year eighteen hundred and , at said B , in behalf of the commonwealth aforesaid, on oath complained to the undersigned, one of the trial justices within and for said county of M , that they have reason to believe, and do believe, that on the day of , in the year eighteen hundred and , at said B , intoxicating liquors, to wit [here describe the liquors, as in the complaint] are kept and deposited by D. E., of said B , in a certain , situate [here describe the building or other place, as in the complaint] in said B , and occupied by said D. E. as a , and that said liquors were, and are, intended for sale by the said D. E., in this commonwealth, contrary to law ; he, said D. E., not being then and there authorized to sell or keep such liquors for sale in this commonwealth for any purpose, by any legal authority whatever, whereby said liquors have become liable to be forfeited.

[In case the place to be searched is a dwelling-house, and no tavern, store, grocery, eating-room, or place of common resort is kept therein, the warrant should contain the following clause :]

[And J. S., one of the said complainants, has duly made oath that he has reason to believe, and doth believe, that intoxicating liquors, such as are mentioned in the complaint, have been illegally sold in said house, within one month last past, by the occupant thereof [or with the permission and consent of the occupant thereof, or have been taken from said house for the purpose of being sold], contrary to law, within one month last past, and that such liquors are kept and deposited in said house, by said D. E., and intended for sale in this commonwealth, contrary to law ; and has, in his said oath, stated the following facts and circumstances on which his said belief was founded :]

[Here let the facts and circumstances be repeated, as in the complaint.] And said complainants have also prayed that due process may issue to search for said liquors, and that such further proceeding may be had in the premises as to law and justice in that behalf may appertain ; and whereas it appears to me, the subscriber, on the complaint aforesaid, that probable cause has been shown for the issuing of a warrant of search thereupon :

These, therefore, are to require you in the name of the commonwealth, taking with you proper assistants, forthwith to enter the herein above described, and make diligent and careful search for all the liquors herein above described, and, if such liquors are found therein, to seize and convey the same, and the vessels which contain such liquors, to some place of safety, and safely keep the same, to await the final action and decision of the court upon said complaint.

Herein fail not, and make due return of this warrant, with your doings thereon.

Witness my hand and seal at said B , this day of , in the year eighteen hundred and .

N. C., *Trial Justice.*

[In a warrant for searching any other place besides a dwelling-house, that part in the foregoing form which relates to the means of knowledge of the complainant that a sale had been made in the building should be omitted.]

Warrant to officer to serve under Sections Thirty-four and Thirty-five.

COMMONWEALTH OF MASSACHUSETTS.

M , ss.

[L. S.] To the sheriff of our county of M , or either of his deputies, or any constable of the town of B , in said county.

[If the seizure is made in a city, the warrant may be directed to the city marshal and other city officers authorized to serve it.]

You are hereby commanded to serve the annexed notice, by delivering an attested copy thereof into the hands of D. E., of B , in the county of M , or leaving an attested copy thereof at his usual place of abode, and also by posting up another attested copy thereof on .

[Here describe the building in which the liquor was seized, if it is found in a building; but if not found in a building, say in some public place in said town of B .] And you are hereby commanded to serve said copy on said D. E., and to post another copy as above directed, at least fourteen days before the day of , in the year eighteen hundred and .

Hereof fail not, and make due return of this warrant, with your doings thereon.

Witness my hand and seal at B , this day of , in the year eighteen hundred and .

N. C., *Trial Justice.*

Form of Notice under Sections Thirty-four and Thirty-five, to be annexed to the Foregoing Warrant, and served as therein directed.

To D. E., of B , in the county of M , and to any and all other persons claiming any interest in [twenty gallons of rum in a barrel, two gallons of gin in a demijohn, and in said barrel and demijohn, or as the case may be], which, by virtue of a warrant issued by me, have been seized [at the dwelling-house of said D. E., in said B , or as the case may be], on the day of , in the year eighteen hundred and , the value of which rum and gin, with the vessels containing them, does not in my opinion exceed fifty dollars.

You are hereby required to appear at [here name the place for the hearing] in said B , at o'clock, M., on the day of , in the year eighteen hundred and , to answer to the complaint against said liquors and the vessels containing them, and for trial, and to show cause, if any you have, why said liquors and the vessels containing them should not be forfeited for being kept for sale by said D. E., in violation of the laws of this commonwealth.

Witness my hand at B , this day of , in the year eighteen hundred and . N. C., *Trial Justice.*

Warrant to Officer to serve Notice under Section Forty-two.

COMMONWEALTH OF MASSACHUSETTS.

. ss.

[L. S.] To the sheriff of our county of M , or either of his deputies, or any constable of the town of B , in said county.

[If the seizure is made in a city, the warrant may be directed to the city marshal and any other city officers authorized to serve it.]

You are hereby commanded to serve the annexed notice, by delivering an attested copy thereof into the hands of D. E., of B , in the county of M , or by leaving an attested copy thereof at his usual place of abode, and also by posting up another attested copy thereof on .

[Here describe the building in which the liquor was seized, if it is found in any building; but, if not found in any building, add, in some public place in said town of B .] And you are hereby commanded to serve said copy on said D. E., and to post another copy as above directed, at least fourteen days before the day of , in the year eighteen hundred and .

Hereof fail not, and make return of this warrant, with your doings thereon, before the justices of our superior court next to be holden at C , in and for our county of M , on the day of , in the year eighteen hundred and .

Witness my hand and seal at said B , this day of , in the year eighteen hundred and .

N. C., *Trial Justice.*

Form of Notice under Section Forty-two, to be annexed to the Foregoing Warrant.

To D. E., of B , in the county of M , and to any and all other persons claiming any interest in [one hundred gallons of brandy in two hogsheads, and two gallons of gin in a demijohn, and in said hogsheads and demijohn, or as the case may be] which, by virtue of a warrant issued by me, have been seized [at the dwelling-house of said D. E., in said B , or as the case may be] on the day of , in the year eighteen hundred and , the value of which brandy and gin, with the vessels containing them, in my opinion exceeds fifty dollars.

You are hereby required to appear before the justices of the superior court next to be holden at C , in said county of M , on the day of next, to answer to the complaint against said liquors and vessels containing them, and for trial, and to show cause, if any you have, why said liquors and vessels should not be forfeited for being kept for sale by said D. E., in violation of the laws of this commonwealth.

Witness my hand and seal at B , this day of , in the year eighteen hundred and .

N. C., *Trial Justice.*

Form of Warrant to deliver Liquor to the Chief of the District Police, and to sell the same.

COMMONWEALTH OF MASSACHUSETTS.

M ss.

[L. S.] To L. M., deputy-sheriff [here name the officer having the liquor in custody], and S. T., a person appointed by N. C., a trial justice for said county, to witness the destruction of said intoxicating liquors. *Greeting:*

Whereas certain intoxicating liquors, to wit [ten gallons of gin in a barrel, and four gallons of port-wine in a demijohn, or as the case may be], have been declared forfeited by me, the subscriber, one

of the trial justices in and for the county of M , for having been kept by D. E., of B , in said county of M , at said B , on the day of , in the year eighteen hundred and , with intent to sell the same in this commonwealth, he not being then and there authorized to sell the same by any lawful authority whatever; whereupon I declared and adjudged, among other things, that said liquors, with the vessels in which they are contained, were forfeited to the commonwealth:

Now I hereby command you, said L. M., to deliver said [ten gallons of gin and four gallons of port-wine] to U. T., chief of the district police, to be by him sold according to law, and the net proceeds paid over to the treasurer of the commonwealth.

And make return of this precept, with your doings thereon.

Witness my hand and seal at said B , the day of , in the year eighteen hundred and .

N. C., *Trial Justice.*

ADDITIONS AND AMENDMENTS MADE BY THE LEGISLATURE OF 1882.

[Chap. 220, Acts of 1882.]

AN ACT TO PROHIBIT THE GRANTING OF LICENSES FOR THE SALE OF INTOXICATING LIQUORS ON PREMISES WITHIN A CERTAIN DISTANCE OF PUBLIC SCHOOLS.

Be it enacted, etc., as follows:

SECTION 1. No license of the first, second, or third class, under the provisions of chapter one hundred of the Public Statutes, shall be granted for the sale of intoxicating liquors in any building or place on the same street within four hundred feet of any building occupied in whole or in part by a public school.

SEC. 2. This act shall take effect upon its passage. [*Approved May* 12, 1882.]

[Chap. 221, Acts of 1882.]

AN ACT TO REGULATE THE INSPECTION AND ANALYSIS OF INTOXICATING LIQUORS.

Be it enacted, etc., as follows:

SECTION 1. The inspector and assayer of liquors, required by chapter one hundred of the Public Statutes to inspect and analyze liquors sent to him as provided in said chapter, shall analyze such liquors as may be sent to him by police-officers and other officers authorized by law to make seizures of liquors, and return a certificate, signed by him, to the officer sending the same, stating the percentage of alcohol, by volume, at sixty degrees Fahrenheit, which such samples of liquors contain.

SEC. 2. A certificate shall accompany each and every sample of liquor sent by an officer to said inspector and assayer for analysis, stating by whom the liquor was seized, the date of the seizure, and

the name and residence of the officer who seized said liquor. The said inspector and assayer shall note the date of the receipt and the analysis of said liquors upon said certificate, with the percentage of the alcohol, as required by section one of this act. Said certificate may be in the following form :

ss.

CITY OF [OR TOWN OF] 188.

To the Inspector and Assayer of Liquors for the Commonwealth of Massachusetts.

SIR : I send you herewith a sample of taken from liquors seized by me. (Date) 188 .

Ascertain the percentage of alcohol it contains, by volume, at sixty degrees Fahrenheit, and return to me a certificate herewith upon the annexed form.

Constable of
Police-officer of

COMMONWEALTH OF MASSACHUSETTS.

OFFICE OF THE INSPECTOR AND ASSAYER OF LIQUORS.

BOSTON 188.

This is to certify that the received by me with the above statement contains per cent. of alcohol, by volume, at sixty degrees Fahrenheit.

Received 188 .
Analysis made 188 .

SEAL.

Inspector and Assayer of Liquors for the Commonwealth.

SEC. 3. The secretary of the commonwealth shall cause to be provided, and shall supply, a suitable number of the forms prescribed in section two of this act. The certificate of said inspector and assayer, given under his hand and seal substantially in the form hereinbefore set forth, shall be admitted as evidence on trials for the forfeiture of intoxicating liquors as to the composition and quality of the liquors to which it relates.

SEC. 4. Any person who shall tamper with samples of liquor taken as herein provided, or shall alter the statements made upon the forms or certificates aforesaid, shall be liable to the penalties provided in section eighteen of chapter one hundred of the Public Statutes.

SEC. 5. Any court or trial justice may cause liquors seized under the provisions of said chapter to be analyzed by a competent chemist other than said inspector and assayer of liquors, and the reasonable expense thereof, including a fee not exceeding five dollars for each analysis, shall be taxed, allowed, and paid like other costs in criminal cases.

SEC. 6. This act shall take effect upon its passage. [*Approved May* 12, 1882.]

[Chap. 222, Acts of 1882.]

AN ACT IN RELATION TO ADVERTISING APPLICATIONS FOR LIQUOR LICENSES IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Section six of chapter one hundred of the Public Statutes is amended by inserting after the words "printed therein," in the fourth line thereof, the words "and in the Charlestown, East Boston, South Boston, Roxbury, West Roxbury, Dorchester, and Brighton Districts respectively in said city, in at least one weekly newspaper published in the district where the premises for which the license is asked are located, if there be any so published."

SEC. 2. This act shall take effect upon its passage. [*Approved May* 12, 1882.]

[Chap. 242, Acts of 1882.]

AN ACT TO FIX THE HOURS OF CLOSING PREMISES OCCUPIED BY COMMON VICTUALLERS.

Be it enacted, etc., as follows:

SECTION 1. Every common victualler holding a license under the provisions of chapter one hundred of the Public Statutes shall keep the premises described in such license closed between the hours of twelve at night and five in the morning.

SEC. 2. Whoever violates the provisions of this act shall be liable to the penalties provided in section eighteen of chapter one hundred of the Public Statutes. [*Approved May* 19, 1882.]

[Chap. 259, Acts of 1882.]

AN ACT RELATIVE TO OBSTRUCTING THE VIEW OF PREMISES LICENSED FOR THE SALE OF INTOXICATING LIQUORS, AND THE STATEMENTS OF SURETIES ON BONDS.

Be it enacted, etc., as follows:

SECTION 1. Section twelve of chapter one hundred of the Public Statutes is amended by adding at the end thereof the following words: "or with a view of the interior of said premises; and the placing or maintaining of any of said obstructions shall of itself make the license void."

SEC. 2. Section thirteen of said chapter is hereby amended by adding after the word "evidence," in the thirteenth line, the following words: "no bond given under the provisions of said chapter shall be accepted or approved until each surety has made and subscribed a sworn statement that he is worth not less than two thousand dollars over and above all liabilities and indebtedness; and the statement so made shall designate sufficient property, real or personal,

to cover the requirement of the bond, and shall be kept on file with the bond in connection with which said statement is made."

SEC. 3. This act shall take effect upon its passage. [*Approved May 26, 1882.*]

LORD'S DAY.

[Pub. Stats. Chap. 98.]

SEC. 4. Whoever, keeping a house, shop, cellar, or place of public entertainment or refreshment, entertains therein on the Lord's Day any persons other than travellers, strangers, or lodgers, or suffers such persons on said day to abide or remain therein, or in the yards, orchards, or fields appertaining to the same, drinking or spending their time idly or at play, or in doing any secular business, shall be punished by fine not exceeding fifty dollars for each person so entertained or suffered so to abide or remain ; and, upon any conviction after the first, by fine not exceeding one hundred dollars ; and, if convicted three times, he shall thereafter be incapable of holding a license.

2 Pick. 138.

SEC. 5. No person licensed to keep a place of public entertainment shall entertain or suffer to remain or be in his house, yard, or other places appurtenant, any persons other than travellers, strangers, or lodgers in such house, drinking and spending their time there, on the Lord's Day, or the evening preceding the same ; and every such innholder or other person so offending shall be punished by fine not exceeding five dollars for each offence.

SEC. 14. Any innholder, common victualler, or person keeping or suffering to be kept in any place occupied by him implements such as are used in gaming, in order that the same may for hire, gain, or reward be used for purposes of amusement, who on the Lord's Day uses or suffers to be used any implements of that kind upon any part of his premises, shall for the first offence forfeit a sum not exceeding one hundred dollars, or be imprisoned in the house of correction not exceeding three months ; and for every subsequent offence shall be imprisoned in the house of correction for a term not exceeding one year ; and in either case shall further recognize, with sufficient sureties, in a reasonable sum for his good behavior, and especially that he will not be guilty of any offence against the provisions of this section for the space of three months then next ensuing.

GAMING.

[Pub. Stats. Chap. 99.]

SEC. 6. Every innholder, common victualler, or person keeping or suffering to be kept in any place occupied by him any implements

such as are used in gaming, in order that the same may for hire, gain, or reward be used for purposes of amusement, who suffers any implements of that kind to be used upon any part of his premises for the purpose of gaming for money or other property, or who suffers a person to play at an unlawful game or sport therein, shall for the first offence forfeit a sum not exceeding one hundred dollars, or be imprisoned in the house of correction for a term not exceeding three months; and for every subsequent offence shall be imprisoned in the house of correction for a term not exceeding one year; and in either case shall further recognize, with sufficient sureties, in a reasonable sum for his good behavior, and especially that he will not be guilty of any offence against the provisions of this chapter for three years then next ensuing.

3 Pick. 281; 8 Met. 232; 9 Met. 572; 3 Cush. 279.

SEC. 7. Whoever, in any place mentioned in the preceding section, for the purpose of gaming for money or other property, uses or takes part in using a billiard-table, bowling-alley, or other implement of gaming, or there plays at an unlawful game or sport, or, for the purpose of such gaming, uses or takes part in using a billiard-table or bowling-alley kept by a person licensed as provided in chapter one hundred and two, shall forfeit a sum not exceeding fifty dollars for each offence.

COMMON NUISANCES.

[Pub. Stats. Chap. 101.]

SECTION 6. All buildings, places, or tenements resorted to for prostitution, lewdness, or illegal gaming, or used for the illegal keeping or sale of intoxicating liquor, shall be deemed common nuisances.

SEC. 7. Whoever keeps or maintains such common nuisances shall be punished by fine of not less than fifty or more than one hundred dollars, and imprisonment in the house of correction for not less than three nor more than twelve months.

10 Gray, 464; 11 Gray, 454; 12 Gray, 89, 175, 326; 14 Gray, 26, 390, 406; 1 Allen, 592; 2 Allen, 169; 7 Allen, 304; 12 Allen, 190; 97 Mass. 122; 105 Mass. 465; 107 Mass. 212; 108 Mass. 27; 110 Mass. 502; 111 Mass. 426; 114 Mass. 252; 115 Mass. 102; 118 Mass. 456; 124 Mass. 26; 127 Mass. 452.

SEC. 8. If a tenant or occupant, under a lawful title, of a building or tenement uses such premises, or any part thereof, for any of the purposes enumerated in section six, such use shall annul and make void the lease or other title under which he holds, and, without any act of the owner, shall cause the right of possession to revert and vest in such owner, who may, without process of law, make immediate

entry upon the premises, or may avail himself of the remedy provided in chapter one hundred and seventy-five.

7 Allen, 109; 14 Allen, 289; 15 Gray, 312; 103 Mass. 381.

SEC. 9. Whoever knowingly lets a building or tenement owned by him, or under his control, for any purpose enumerated in section six, or knowingly permits such building or tenement, or any part thereof, while under his control, to be used for such purpose, or after due notice of any such use omits to take all reasonable measures to eject therefrom the persons occupying the same as soon as it can lawfully be done, shall be deemed guilty of aiding in the maintenance of such nuisance, and punished as provided in section seven.

106 Mass. 537; 112 Mass. 277.

SEC. 10. The mayor and aldermen or selectmen of any place, upon complaint made to them under oath that the complainant has reason to believe, and does believe, that a booth, shed, or other temporary erection, situated within one mile of a muster-field, cattle-show ground, or other place of public gathering, is used and occupied for the sale of spirituous or fermented liquor, or for the purpose of gaming, may, if they consider the complaint well founded, order the owner or occupant thereof to vacate and close the same forthwith. If the owner or occupant refuses or neglects so to do, the mayor and aldermen or selectmen may forthwith abate such booth, shed, or erection as a nuisance, and pull down or otherwise destroy the same in any manner they choose, or through the agency of any force, civil or military.

INNHOLDERS AND COMMON VICTUALLERS.

[Gen. Stats. Chap. 102.]

SECTION 1. Whoever presumes to be an innholder or common victualler, without being licensed as such according to the provisions of this chapter, shall forfeit one hundred dollars.

5 Gray, 597; 101 Mass. 214; 105 Mass. 263.

SEC. 2. The mayor and aldermen of any city, except Boston, and the selectmen of a town, may grant licenses to persons to be innholders or common victuallers in such city or town. No such license shall be issued until it has been signed by the mayor and a majority of the aldermen of the city, or a majority of the selectmen of the town in which it is granted. A mayor, alderman, or selectman may refuse to sign a license to a person who in his opinion has not complied with the provisions of this chapter; and any such officer who signs a license granted contrary to the provisions of this chapter shall be punished by fine not exceeding fifty dollars. All the pro-

visions of this chapter relative to the licensing of innholders and common victuallers by the mayors and aldermen of cities shall in Boston apply to the board of police commissioners; and no such license shall be valid unless signed by a majority of the members of the board.

SEC. 3. Every such license shall specify the street, lane, alley, or other place, and the number of the building, or give some other particular description thereof, where the person licensed shall exercise his employment; and the license shall not protect a person exercising his employment in any other place than that so specified.

SEC. 4. Such licenses shall expire on the first day of April of each year; but may be granted during the month of March, to take effect on the first day of April then next ensuing, except that in Boston all such licenses shall expire on the first day of May next after they take effect.

SEC. 5. Every innholder shall at all times be furnished with suitable food for strangers and travellers, and shall also have upon his premises suitable rooms, with beds and bedding, for their lodgings. He shall also be furnished with stable-room, hay, and provender for the horses and cattle of his guests, when the authorities issuing the license so require.

SEC. 6. Every common victualler shall be at all times furnished with suitable food for strangers and travellers.

SEC. 7. No innholder's license shall be granted or issued to any person, unless at the time of making application therefor he has upon his premises the necessary implements and facilities for cooking, preparing, and serving food, the rooms, beds and bedding, and the stable-room and provender for horses and cattle, required by section five.

SEC. 8. No common victualler's license shall be granted or issued to any person, unless at the time of making application therefor he has upon his premises the necessary implements and facilities for cooking, preparing, and serving food for strangers and travellers.

SEC. 9. If an innholder, when requested, refuses to receive and make suitable provision for a stranger or traveller, and also for his horses and cattle, when he may under this chapter be legally required so to do, he shall be punished by fine not exceeding fifty dollars; and, in addition to said penalty, shall forfeit his license.

SEC. 10. If a common victualler, when requested, upon any other than the Lord's Day, refuses to supply food to a stranger or traveller, he shall be punished by fine not exceeding fifty dollars; and, in addition to said penalty, shall forfeit his license.

SEC. 11. When in the opinion of the mayor and aldermen of a city, or the selectmen of a town, a person holding a license as an

innholder or a common victualler ceases to be engaged in the business he is licensed to pursue, or fails to maintain upon his premises the implements and facilities required by this chapter, they shall immediately revoke his license.

SEC. 17. Every innholder and common victualler shall at all times have a board or sign affixed to his house, shop, cellar, or store, or in some conspicuous place near the same, with his name at large and the employment for which he is licensed thereon, and upon neglect thereof shall forfeit twenty dollars.

SEC. 18. Whoever is convicted under the provisions of the preceding sections, except those contained in sections nine and ten, and fails to pay the fine and costs awarded against him, may be imprisoned in the jail for a time not exceeding ninety days, at the discretion of the court or justice before whom the trial is had.

23 Pick. 280.

SEC. 19. Whoever, being licensed under the provisions of the preceding sections, is convicted a second time of a breach of any of said provisions, shall in addition to the penalties before provided be adjudged to have forfeited his license.

SEC. 20. Whoever is convicted a third time of a breach of any of the provisions of the preceding sections, except those contained in sections nine and ten, shall, in addition to the penalties before provided, be punished by imprisonment in the jail not exceeding ninety days.

SEC. 21. No innholder, tavern-keeper, retailer, confectioner, or keeper of a shop or house for the sale of drink or food, or a livery-stable keeper for horse or carriage hire, shall give credit to a student in an incorporated academy or other educational institution within this State.

1 Pick. 177.

SEC. 22. No person shall be approved or licensed for either of the employments aforesaid, if it appears that he has given credit contrary to the provisions of the preceding section.

SEC. 23. Whoever gives credit contrary to the provisions of section twenty-one shall forfeit a sum equal to twice the amount so unlawfully trusted or credited, whether the same is paid or not.

SEC. 24. Nothing contained in this chapter shall be construed to require the mayor and aldermen or selectmen to grant either of the licenses aforesaid, when in their opinion the public good does not require it. And, when such license is granted, no fee shall be charged therefor.

GENERAL PROVISIONS.

SEC. 117. Whoever offers to view, sets up, sets on foot, maintains, or carries on a theatrical exhibition, public show, concert, or dance-

hall exhibition, of any description, at which lager-beer or other intoxicating liquor is sold or exposed for sale with the consent of those who get up, set on foot, or otherwise promote such exhibition or show, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the house of correction for not more than two years, unless such exhibition or show has been duly licensed as provided by section one hundred and fifteen. This section shall not authorize the licensing of the sale, at any exhibition or show, of liquor the sale of which is prohibited by law.

SEC. 123. Any marshal or his deputy, sheriff or his deputy, constable, police officer, or watchman may at any time enter into a billiard, pool, or sippio room, bowling-alley, or room connected therewith or with the premises of a common victualler, for the purpose of enforcing any law of the State; and whoever obstructs or hinders the entrance of such officer shall be punished by fine of not less than five nor more than twenty dollars.

123 Mass. 420; 126 Mass. 269.

PENALTIES FOR DRUNKENNESS.

[Gen. Stats Chap. 207, Secs. 25–30.]

SECTION 25. Whoever is found in a state of intoxication in a public place, or is found in any place in a state of intoxication committing a breach of the peace or disturbing others by noise, may be arrested without a warrant by a sheriff, deputy-sheriff, constable, watchman, or police-officer, and kept in custody in some suitable place until he is so far recovered from his intoxication as to render it proper to carry him before a court or trial justice. The officer may then make a complaint against him for the crime of drunkenness.

123 Mass. 436; 125 Mass. 198.

SEC. 26. Whoever is guilty of drunkenness by the voluntary use of intoxicating liquor shall, if it is not proved that he or she has been convicted of a like offence once before within the next preceding twelve months, be punished by fine not exceeding one dollar, and the costs of prosecution, or such portion thereof as the court or trial justice may determine; and, in case of non-payment of such fine and costs, may be committed to the jail, house of industry, or house of correction, or to the workhouse, if there is any which has a criminal department, in the town or city where the offence was committed, until the fine and costs are paid; not, however, exceeding ten days.

116 Mass. 340.

SEC. 27. If a male person is guilty of drunkenness who has been

convicted of a like offence once before within the next preceding twelve months, he may be punished by fine not exceeding five dollars and the costs of prosecution, or by imprisonment in the jail, or in any place provided by law for common drunkards, not more than two months. And if such person has been convicted of a like offence twice before within the next preceding twelve months, he may be punished by fine not exceeding ten dollars and the costs of prosecution, or by imprisonment in the jail or in any place provided by law for common drunkards, for not more than one year.

130 Mass. 35.

SEC. 28. If a woman is convicted of drunkenness who has been convicted thereof twice before within the next preceding twelve months, she may be punished by fine not exceeding ten dollars or by imprisonment in the reformatory prison for women not less than twelve months and not more than two years, or by imprisonment in any place provided by law for common drunkards not more than one year.

SEC. 29. Rogues and vagabonds, persons who use any juggling or unlawful games or plays, common pipers and fiddlers, stubborn children, runaways, common drunkards, common night-walkers both male and female, pilferers, lewd, wanton, and lascivious persons in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, misspend what they earn, and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually misspend their time by frequenting houses of ill-fame, gaming-houses, or tippling-shops, may be committed for a term not exceeding six months to the house of correction, or to the house of industry or workhouse, within the city or town where the conviction is had, or to the workhouse, if any there is, in the city or town in which the offender has a legal settlement, if such town is within the county. A female offender under this section may in the discretion of the court be committed to the reformatory prison for women for a term not exceeding two years.

5 Gray, 85; 1 Allen, 6; 127 Mass. 495; 112 Mass. 285.

SEC. 30. A person convicted by a trial justice, or police, district, or municipal court, of any offence mentioned in the preceding section, may, instead of the punishment therein mentioned, be punished by fine not exceeding twenty dollars, either with or without a condition that, if the same with the costs of prosecution is not paid within a time specified, he or she shall be punished as is provided in the preceding section; which conditional sentence shall be carried into execution according to the provisions of section seven of chapter two hundred and fifteen.

RHODE ISLAND.

RHODE ISLAND has a license law of forty-six sections, passed June 25, 1875.

Town councils of the several towns, and the boards of aldermen in the several cities, are empowered to grant or to refuse to grant annual licenses to sell liquor to such extent as they may think proper. The sale of intoxicating liquors is prohibited "on Sunday, or to any minor, or person of notoriously intemperate habits." A bond of $1,000 is required, and other provision is made to prevent violations of the law. Licenses are to be posted in a conspicuous position in the room or place where the liquor is sold. There is a civil damage proviso, and payments for liquors unlawfully sold cannot be enforced.

An act passed March 14, 1876, makes it the duty of the license commissioners of the city of Providence to report annually on or before the 1st of February to the Legislature the number of licenses granted, to whom, the amount of money received therefor, "together with such other information as they may deem desirable or expedient."

CONNECTICUT.

An Act to regulate and restrain the Sale of Spirituous and Intoxicating Liquors.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

PART I. DEFINITIONS.

Section 1. The term spirituous and intoxicating liquors, as used in this act, shall be held to include all spirituous and intoxicating liquors, all mixed liquor of which a part is spirituous and intoxicating, all distilled spirits, all wines, ale, and porter, all beer manufactured from hops and malt, or from hops and barley, and all beer on the receptacle containing which the laws of the United States require a revenue stamp to be affixed, and all cider sold to be drunk on the premises.

Sec. 2. The word tax-payer, as used in this act, shall not include any person who does not pay a tax upon real or personal property assessed on the grand list of the town in which he resides.

PART II. OF THE POWERS AND DUTIES OF TOWNS.

Section 1. Upon the petition of not less than twenty-five legal voters and tax-payers of any town, the selectmen thereof shall notify the legal voters of said town that at the next annual town meeting a ballot will be taken to determine whether any person shall be licensed to sell spirituous and intoxicating liquors in said town. The ballot shall be cast either in favor of or against the granting of licenses for the sale of spirituous and intoxicating liquors, and the vote then taken shall remain in full force until annulled by a new vote taken at an annual town meeting, upon petition and after due notice as aforesaid, and the polls for such vote shall be open during the same hours as for the other ballots cast at such meeting, which vote shall become operative on the first Monday of the month next succeeding said town meeting.

Sec. 2. Whenever any town shall have voted upon the question of license as aforesaid, any license granted in such town which is not in accordance with such vote shall be void. Whenever any town shall have voted against the granting of licenses for the sale of spirituous and intoxicating liquors, the delivery by the vender or his agent, within

the limits of said town, of any spirituous and intoxicating liquors shall be deemed a sale of such liquors within said town, although the contract for the sale of such liquors be made outside the limits of said town.

PART III. THE POWERS AND DUTIES OF COUNTY COMMISSIONERS.

SECTION 1. The county commissioners of each county shall license, for a period not extending beyond the first Monday of the month following the next annual town meeting, by a writing signed by themselves, suitable persons to sell or exchange spirituous and intoxicating liquors, in suitable places in those towns within their respective counties in which such licenses can legally be granted, and upon written application in the manner hereinafter provided.

SEC. 2. The county commissioners of the several counties in this State shall on or before the tenth day of each and every month report to the treasurer of each of the several towns interested the number and kind of licenses granted within and for such town during the preceding month, and the amount of money received by them for each license so granted.

SEC. 3. The county commissioners in each county shall pay to the treasurer of such county five per cent. of all moneys received by them for licenses issued for the sale of spirituous and intoxicating liquors, the same to be used for defraying the county expenses.

SEC. 4. The county commissioners of the several counties in this State shall pay to the treasurers of the several towns in their respective counties, on the first day of each month, all moneys received for licenses from persons licensed in the said several towns during the month preceding, less the five per cent. heretofore ordered to be paid to the treasurer of said county.

SEC. 5. The county commissioners of the several counties of this State shall, in the month of November of each year, report to the governor, for the information of the General Assembly, the number of licenses granted by them, during the year terminating with the thirty-first day of October next preceding, to persons in the different towns of their respective counties, specifying the character of said licenses, whether the same be wholesale or retail, or to licensed druggists, as hereinafter provided, together with the amounts received from the several towns for each kind of license, with a full and precise account of the disposition which they have made of all the sums of money received by them therefor; which report shall be signed by all, or by a majority, of said commissioners, and be certified by them under oath.

SEC. 6. The county commissioners of each county may, upon complaint made of any violation of the provisions of part six of this act,

and upon cause found after due hearing had, revoke any license theretofore granted by them for the sale or exchange of spirituous and intoxicating liquors in said county, and for the purpose of such hearing shall, while in session, have the power which justices of the peace have in their respective towns to compel the attendance and secure the testimony of witnesses duly summoned to appear before them, and shall receive for the services rendered in such hearing the same fees and expenses as in other services for the county; and whensoever it shall be necessary for said commissioners to be in session for the purposes provided in this section, or for the purpose of hearing objections to the granting of any license, any number of days in excess of the number limited by law, they may charge for such excess the usual *per diem* compensation, notwithstanding such limitation. Any prosecuting agent within said county may, of his own motion, and upon the sworn complaint of any two legal voters within said county shall, prefer charges before said commissioners against any person who may be accused of any violation of any of the provisions of part six of this act, and said commissioners shall thereupon summon said accused person to appear, if he see cause, before them, at a given time and place, to show reason, if any he have, why his license should not be revoked; which summons shall be served by a proper officer, by leaving a copy thereof with the accused, or at the place in which he is licensed to sell spirituous and intoxicating liquors, at least six days before the same is made returnable.

SEC. 7. The fees of the officer serving the process and of the witnesses summoned to testify therein shall be the same as in ordinary criminal causes. The fees of the prosecuting agent shall be ten dollars per day for each and every day actually employed in conducting the hearing upon said charges. The fees authorized by this section shall be taxed by the county commissioners, and by them reported in writing to the county treasurer for record in a book provided for that purpose; and the said county commissioners shall, on their order, draw upon the treasurer for the gross amount so taxed in each case, and pay the same to the persons in whose favor they are taxed.

SEC. 8. Any revocation of any license by said county commissioners, in the manner aforesaid, shall be final and conclusive, and not subject to appeal, review, or revision, by any other tribunal whatever; and a certificate of such revocation shall be by them transmitted to the clerk of the superior court for their county, who shall make a record of such revocation. On the revocation of such license the bond given by such person to the county shall be put in suit by the treasurer of said county, and said suit prosecuted in his name to final judgment for the benefit of such county, and upon due proof in any such suit of the breach of any of the conditions of said bond, judg-

ment shall be rendered for the entire amount thereof, with costs. The reasonable expenses of such suit, having been audited by the county commissioners, shall be paid by such county.

SEC. 9. If any person who now holds, or who shall hereafter hold, the office of county commissioner shall either directly or indirectly, by himself or by his servant or agent, engage in the sale of spirituous and intoxicating liquors while holding such office, he shall, upon conviction thereof, become disqualified to hold such office of county commissioner for the remainder of the term for which he was elected, and such office shall become vacant. No person while holding the office of county commissioner shall be or become a surety on the bond of any person licensed to sell spirituous and intoxicating liquors.

PART IV. OF LICENSES AND LICENSEES.

SECTION 1. All applications for licenses shall be in writing, signed by the applicant, and endorsed by five electors and tax-payers of the town within the limits of which the business carried on under such license is to be transacted. Every such application shall specify the particular building in which spirituous and intoxicating liquors are to be sold, and if said building is within two hundred feet in a direct line from any church edifice or public school-house, or the premises pertaining thereto, it shall state the distance therefrom. No person endorsing such application shall himself be a licensed dealer in spirituous and intoxicating liquors, and no person shall endorse more than one application. The application so endorsed shall be submitted to the town clerk of the town in which the business so licensed is to be carried on, who shall certify upon the same that each of said endorsers is an elector and tax-payer in said town, and said application shall then be transmitted to the county commissioners, and a copy thereof, including said endorsement, shall be filed with said town clerk, who shall advertise the same in some daily or weekly newspaper published in said town at least once a week for two successive weeks; and if no newspaper be published in said town, the advertisement shall be by posting a copy of said application and endorsement upon the sign-post in said town nearest the building specified in said application during a period of two weeks before the same shall be acted upon by the county commissioners, and the expense of such advertising or posting, together with a fee of fifty cents for his services herein required, shall be paid to the town clerk by said applicant at the time the copy of said application is filed with said clerk. Any person a citizen of the town within which the business carried on under any license is to be transacted may file with the county commissioners any objection to the granting of any license to any applicant therefor, and upon the filing of such objection said

county commissioners shall give such notice as they shall deem reasonable of the time and place of the hearing of such objections, at least five days before such hearing shall be had, and upon such hearing said county commissioners shall decide whether or not such license shall be granted.

SEC. 2. No person shall receive a license for the sale of spirituous and intoxicating liquors until he shall have filed with the county commissioners a joint and several bond to the treasurer of said county in the sum of three hundred dollars, with sufficient surety conditioned for the due observance of all the provisions of part six of this act, and no person shall be a surety upon such a bond who is himself a licensed dealer in spirituous and intoxicating liquors while the bond upon which he is principal is in force; nor shall the same person be at the same time surety on more than one license bond. And whenever the person so licensed shall be convicted of a violation of any of the provisions of part six of this act, and no appeal is pending, said bond shall thereupon become forfeited, and the treasurer of said county shall, in his own name, institute suit upon said bond for the benefit of said county, and upon due proof of said conviction, the court before which said suit is brought shall render judgment in favor of said treasurer for the entire amount of said bond with costs. Every person, except a licensed druggist, to whom any such license shall be granted, shall pay to said county commissioners a sum not less than one hundred dollars nor more than five hundred dollars, as said county commissioners may determine in each particular case, and in towns of not over three thousand population the license fee, except to wholesale dealers and licensed druggists, shall be one hundred dollars for each license for the sale of spirituous and intoxicating liquors, and the sum of fifty dollars for each license for the sale of ale, lager-beer, or cider sold to be drunk on the premises, and Rhine wine only; and whensoever a license shall be granted for less than one year, the person to whom such license is granted shall pay such a proportion of the annual license fee as such county commissioners may judge proper. Any druggist, regularly licensed by the commissioners of pharmacy, may be licensed to use spirituous and intoxicating liquors for compounding prescriptions, and to sell spirituous and intoxicating liquors upon the prescription of any practising physician, upon the payment of a fee of twelve dollars, but druggists doing business in towns containing less than five thousand inhabitants shall only be required to pay ten dollars for such license; but no license so issued to any such druggist shall authorize the sale or delivery of any spirituous and intoxicating liquors to be drunk upon the premises or be sold otherwise than upon such prescription.

SEC. 3. Every license for the sale of spirituous and intoxicating

liquor shall specify the town, and the particular building or place in such town, in which said spirituous and intoxicating liquors are to be sold, and shall authorize no sale in any other place or building. Such license shall also be made revocable in terms for any violation of any of the provisions of part six of this act. The county commissioners may endorse upon said license permission to the person so licensed to remove from one building to another in said town, but the applicant for said permission shall specify the building to which he wishes to remove, as provided in section one, part four, of this act.

SEC. 4. Any licensee may, with the consent of the county commissioners, transfer his license to any other suitable person, but the person to whom such license is to be transferred shall make a similar application, procure a like recommendation, and execute a bond of the same amount and character, as hereinbefore required of the person to whom such license was originally granted.

SEC. 5. Every person so licensed shall cause his license to be framed, and to be hung in plain view in a conspicuous place in the room where the sale so licensed is to be carried on. Any person violating this provision shall be liable to a fine of five dollars.

SEC. 6. The clerk of the superior court in each county shall keep a record of all the licenses for the sale of spirituous and intoxicating liquors which may be granted in said county, and shall enter in a book, to be kept for that purpose, the number of such license, the name of the town in which the sale under such license is to be carried on, the sum paid for such license, and shall state whether it be a druggist's license or a liquor license in general, or one for the sale of ale, lager-beer, cider sold to be drunk on the premises, and Rhine wine only. Any person so licensed who shall sell any spirituous and intoxicating liquor, without having had his license therefor so recorded, shall be liable to a fine of five dollars for each and every week during which said license shall remain unrecorded, which said fine shall be paid to the town in which such sale is effected. A certificate from such clerk, that any person is or is not duly licensed as aforesaid, or that having been licensed such license has been revoked, shall be *prima facie* evidence of such fact in the trial of any cause, civil or criminal, in any court of this State.

SEC. 7. No spirituous and intoxicating liquors shall be sold, exchanged, or given away in any building belonging to or under the control of the State, or of any county or town in the State; nor shall any license be granted for the sale of spirituous and intoxicating liquors in any building, except a hotel, when said building is also used as a dwelling-house, unless access from the portion of said

building used as a dwelling to the portion appropriated to the sale of spirituous and intoxicating liquors is effectually closed, and if any way of access from the other portions of said building to the portion used for the sale of such liquors shall be opened after said license is granted, such license shall thereupon be revoked by the county commissioners. No license for the sale of spirituous and intoxicating liquors shall be granted to any sheriff, deputy-sheriff, constable, grand juror, justice of the peace, prosecuting agent, or to any female who is not known to the county commissioners to be a woman of good repute; or to any female who is a member of the household of any person to whom a license has been refused, or by whom a license has been forfeited, or to any person keeping a house of ill-fame, or a house reputed to be a house of ill-fame, or to any person keeping any gambling place of any description.

SEC. 8. Whenever any person licensed to sell spirituous and intoxicating liquors shall have been convicted of the violation of any of the provisions of part six of this act, he shall, in addition to the penalties prescribed for such offence, incur a forfeiture of his license and all moneys that may have been paid therefor, and the county commissioners shall thereupon revoke his said license, and he shall not thereafter for the space of one year from the date of said revocation be capable of receiving any license to sell spirituous and intoxicating liquors.

SEC. 9. Nothing in this act shall be construed to require a license for the sale, by the importers thereof, of any foreign spirituous and intoxicating liquors which have been imported in accordance with the laws of the United States; *provided*, that said liquors at the time of said sale remain in the original casks or packages in which they were imported, and in quantities not less than the quantities in which such liquors are required to be imported by the laws of the United States, and are sold in such casks or packages and in such quantities only.

SEC. 10. The executors or administrators on the estate of any deceased person, and the trustees of any insolvent estate, when such estates consist in whole or in part of spirituous and intoxicating liquors, may sell such liquors belonging to said estates without procuring any license therefor; *provided*, that such sales be to a regularly licensed dealer and comprise the entire amount of the liquors so coming into their hands.

SEC. 11. No person shall sell any spirituous and intoxicating liquors by sample, by soliciting or procuring orders, or otherwise, within this State, without taking out a license therefor in the manner provided in this chapter; but nothing in this act contained shall prohibit any dealer in spirituous and intoxicating liquors duly licensed under the

provisions of this act from soliciting and procuring orders in any town in this State in which such liquors may legally be sold.

SEC. 12. Whenever any license for the sale of spirituous and intoxicating liquors shall have been obtained by fraud or misrepresentation, the county commissioners, upon due proof that said license was so obtained, shall, upon hearing had, revoke the same, and all moneys paid therefor shall be forfeited.

SEC. 13. No person having a license under the provisions of this act shall employ any minor as bar-tender, porter, or in any other capacity, in any saloon where spirituous and intoxicating liquors are kept for sale, and upon such employment the county commissioners shall revoke the license of such person.

PART V. SEIZURES.

SECTION 1. All spirituous and intoxicating liquors which are intended by the owner or keeper thereof to be sold or exchanged in violation of law shall, together with the vessels in which such liquors are contained, be and be deemed a nuisance.

SEC. 2. Any justice of the peace within the county, or city, or police court within the town, upon the sworn complaint of any prosecuting agent of such county, or upon the sworn complaint of any two legal voters of such town who are of good moral character, in which complaint it is alleged that spirituous and intoxicating liquors therein described, with reasonable certainty as to the kind thereof and the place and owner or keeper thereof, are owned or kept by any person and are by him intended to be sold or exchanged contrary to law, may issue such warrant, directed to a proper officer, describing in the manner aforesaid said liquor, place, owner, or keeper, and commanding said officer to search said place, and upon finding said liquor to seize the same, with the vessels containing it, and keep such liquor and vessels securely until final action be had thereon. The officer to whom such warrant shall be delivered shall make search in the place described in said warrant at any time while such place is or appears to be open for business, and shall seize the liquors found therein and so described in his warrant, and shall make due return of his doings on said warrant; *provided*, that if the place to be searched shall be a dwelling-house in which any family resides and in which no place of public resort is kept, such warrant shall not be issued and served unless such prosecuting agent, or at least one of the said complainants, shall declare on oath or affirmation before said justice or court that he verily believes that within one month next before the making of said complaint spirituous and intoxicating liquors have been sold in such house, or in some dependency thereof, by the person accused or by his consent or permission, in violation of law, nor

unless said justice or court shall find that said complainant has adequate reasons for such belief.

SEC. 3. When any such liquor shall have been seized upon such warrant, the justice or court issuing said warrant within forty-eight hours after such seizure shall cause to be posted upon a public sign-post in said town, and also to be left at the place where such liquor was seized, if such place be a dwelling-house, store, shop, or other building, and also to be left with or at the usual place of abode of the person named in said complaint as the owner or keeper of such liquor, if he be a resident of this State, a summons notifying him and all others whom it may concern to appear before said justice or court, at a place and time named in such notice, which time shall not be less than six nor more than twelve days after the posting and serving of such summons, then and there to show cause, if any he have, why said liquor should not, with the vessels in which it is contained, be adjudged a nuisance. Such summons shall describe said liquor and vessels containing it with reasonable certainty, and shall state when, where, and why the same was seized. If the person named in said complaint, or any person claiming an interest in said liquor or in said vessels, shall appear, he shall be made a party defendant in said case. The prosecuting agent or said complainants, or either of them, or any grand juror of the town, or, upon the failure of said prosecuting agent or said complainants or grand juror, the officer having such liquor in custody, may appear and prosecute said complaint, and if the court shall find the allegations of said complaint to be true, and that said liquor or any part thereof has been kept with intent to sell or exchange the same in violation of law, judgment shall be rendered that said liquor or said part thereof, with the vessels containing it, is a nuisance.

SEC. 4. The costs of all proceedings under the second, third, and fifth sections of this part, except those paid by a defendant or defendants, shall be paid by the town where they are had, upon a written order drawn by the clerk of the court or justice before whom they are had upon its treasurer, as is by statute provided in criminal cases tried before justices. If the judgment shall be against one defendant only, he shall pay the costs of the proceedings so far as the same may have been incurred in the seizure and detention of the liquors claimed by him ; but if the judgment be against more defendants than one, claiming distinct interests in said liquor, the cost of such proceedings shall be apportioned among them by said court, and execution thereon may be issued against the property of the defendant or defendants.

SEC. 5. The court rendering final judgment sustaining such complaint shall issue a warrant to some proper officer, directing him to

destroy said liquor and the vessels containing it, and to make return of his doings thereon. If judgment shall be rendered that said liquor is not a nuisance, the court shall issue a warrant to some proper officer, directing him to restore said liquor, with the vessels containing it, to the place where it was seized, as nearly as may be, or to the person entitled to receive it, and his costs and the cost of the proceedings in such case shall be paid by the town.

SEC. 6. All proceedings for the seizure of spirituous and intoxicating liquors shall be proceedings *in rem*, and shall be conducted as civil actions, and the defendant shall have the same right of appeal. All such proceedings, if brought before any other court than a justice of the peace, or city or police court, shall be tried at the first term of said court, unless it be otherwise directed, and such trials shall be conducted by the State's attorney.

PART VI. OF CRIMES AND PENALTIES.

SECTION 1. Any person who without a license therefor shall, by sample, by soliciting or procuring orders, or otherwise, sell or exchange, or shall offer or expose for sale or exchange, or shall own or keep with intent to sell or exchange, any spirituous and intoxicating liquors, and any person licensed to sell or exchange ale, lager-beer, cider, and Rhine wine only, who shall in the place where he is so licensed to sell ale, lager-beer, cider, and Rhine wine only, keep, sell, exchange, or give away any other spirituous and intoxicating liquors, shall be fined for the first offence not more than fifty dollars; for the second offence he shall be fined fifty dollars and be imprisoned for thirty days; and for the third and every subsequent offence he shall be fined one hundred dollars and be imprisoned for sixty days.

SEC. 2. Every person who shall keep a bar or place in which it is reputed that spirituous and intoxicating liquors are kept for sale or exchange, without having been duly licensed therefor, shall be fined not more than thirty dollars.

SEC. 3. Whenever any person shall complain to any of the selectmen of any town that his or her father, mother, husband, wife, child, or ward is addicted to the excessive use of spirituous and intoxicating liquors, and shall request said selectmen in waiting to notify the licensed dealers in said town not to sell, exchange, or give any spirituous and intoxicating liquors to such father, mother, husband, wife, child, or ward, such selectmen shall, on being satisfied that such complaint is true, forthwith notify in writing every licensed dealer in said town that said request has been made, and that the sale, exchange, or gift of any spirituous or intoxicating liquors to such father, mother, husband, wife, child, or ward is forbidden by law,

and such selectmen shall keep a record of such notification, which may be used as evidence.

SEC. 4. Every licensed person who by himself, his servant, or agent shall sell or deliver spirituous and intoxicating liquor to any minor or to any intoxicated person, or to any husband after having received notice from his wife not to sell or deliver such liquor to him, or to any wife, after having received notice from her husband not to sell or deliver such liquor to her, or to any habitual drunkard, knowing him to be such, or to any persons after having received notice from the selectmen, as provided in the preceding section, not to sell, exchange, or give such liquor to such person, or allow any minor to loiter on their premises where such liquors are kept for sale, shall be fined not more than fifty dollars, or be imprisoned not less than ten nor more than sixty days, or both.

SEC. 5. Every person who by himself, his servant, or agent, between the hours of five o'clock in the morning and the hour of closing the polls of the day of any annual city, town, or electors' meetings, shall keep open any room, place, or enclosure, or any building or structure of any kind or description, in which spirituous and intoxicating liquors are sold to be drunk on the premises, shall be fined fifty dollars.

SEC. 6. Every person licensed to sell spirituous and intoxicating liquors, and the servant or agent of any such licensed person, who shall between twelve o'clock at night and five o'clock of the following morning keep open any place, apartment, store, or room where such liquors are sold, exchanged, or given away, shall be fined not less than twenty-five nor more than fifty dollars, but the provisions of this and the preceding section shall not apply to any person when selling under a druggist's license.

SEC. 7. Any druggist, licensed as hereinbefore described, who by himself, his servant, or agent shall violate any of the provisions of this part, shall pay a fine of not less than fifty nor more than one hundred dollars.

SEC 8. Every person who by himself, his servant, or his agent, between the hours of twelve o'clock on Saturday night and twelve o'clock on Sunday night next following, shall sell or expose for sale any spirituous or intoxicating liquors, or shall keep open any place of any kind or description in which spirituous and intoxicating liquors are at any time sold or exposed for sale, or are reputed to be sold or exposed for sale, or in which any sports or games of chance are at any time carried on or allowed, or are reputed to be so carried on or allowed, shall pay a fine of not less than fifty nor more than one hundred dollars, or be imprisoned not more than six months, or both; but this section shall not apply to sales under a druggist's license.

SEC. 9. Every jailer, prison-keeper, or other officer who shall furnish or shall suffer to be furnished to any prisoner under his charge any spirituous and intoxicating liquors, except as medicine, shall be fined not more than twenty dollars.

SEC. 10. Every person who shall deliver to any prisoner confined in any jail or county workhouse any spirituous and intoxicating liquors without liberty from the keeper having charge and custody of such jail or workhouse shall be fined not more than ten dollars.

SEC. 11. Every person who shall manufacture, sell, or keep for sale any spirituous and intoxicating liquors, or any liquors made and compounded in imitation thereof which are adulterated with any deleterious or poisonous substance, shall be fined not more than two hundred and fifty dollars, which fine shall be paid one-half to him who shall prosecute to effect, and the other half to the town in which such offence is committed.

SEC. 12. Every person who, by himself or his agent, shall sell any spirituous and intoxicating liquor to any other person, to be drunk on the premises, who thereby becomes intoxicated, and who, while so intoxicated, shall in consequence of said intoxication injure the person or property of another, shall pay just damages to the person injured, to be recovered in an action on this statute.

PART VII. PROCEDURE.

SECTION 1. Prosecutions under the provisions of this act may be determined by a justice of the peace, or police or city court; but no justice of the peace shall fine the accused more than one hundred dollars, or imprison him more than sixty days.

SEC. 2. The county commissioners of each county shall appoint one or more persons residing therein, subject to the approval of a judge of the superior court, to be prosecuting agents, whose duty it shall be diligently to inquire into and prosecute all violations of the laws relating to the sale of spirituous and intoxicating liquors; who shall have and exercise in any town or city in said county the powers of grand jurors or prosecuting officers in all prosecutions for such violations, and may conduct such prosecutions personally or by attorney. Said prosecuting agents shall render such aid in all prosecutions for violation of the provisions of this act tried in the superior court, and shall give such information in reference thereto, as the State's attorney of said county may require. They shall render monthly reports of their doings to said county commissioners, who may remove any of said prosecuting agents at their discretion and appoint others in their stead. Every prosecuting agent shall hold office for two years from the date of his appointment, unless sooner removed. No person engaged in the sale of spirituous and intoxicat-

ing liquors shall be appointed as such prosecuting agent, and any prosecuting agent who has heretofore, while holding said office, engaged, or who shall hereafter engage, in such sale shall be deemed to have vacated his office, and the county commissioners shall immediately appoint some other person in his stead.

SEC. 3. Every prosecuting agent appointed under the provisions of the preceding section shall be paid, in lieu of all fees and allowances to him, ten dollars for each case of prosecution or search commenced or conducted by him before any justice of the peace, city or police court, to be taxed and paid as other costs in such cases; *provided* that the court taxing the costs is of opinion that such case was by him entered into in good faith and upon probable cause, and pursued so far as the ends of justice required, and for services in the superior court, under the provisions of the preceding section, such sum, not exceeding ten dollars, to be taxed as a part of the costs in each case, as said court may deem just.

SEC. 4. Whenever any person who shall have been found intoxicated, or shall have been arrested for intoxication, shall, at the request of the prosecuting officer, disclose to him from whom, when, where, and how he procured the liquor by which his intoxication was produced, and shall, in the opinion of said officer, testify fully and freely upon the trial of the person accused of selling him such liquor, such disclosure and the evidence given by him on such trial shall not be used against him on any prosecution for such intoxication. The evidence so given shall be taken down in writing by the magistrate or clerk of the court before which said evidence has been produced, and shall be read to and signed by the person so testifying, and be certified by said magistrate or clerk, and shall then be forwarded to the State's attorney for the county where said prosecution shall have been had.

SEC. 5. Every officer who shall have a warrant for the arrest of any person charged with keeping a house of ill-fame, or with keeping a house reputed to be a house of ill-fame or a house of assignation, or with keeping a house where lewd, dissolute, or drunken persons resort, or where drinking, carousing, dancing, and fighting are permitted, to the disturbance of the neighbors, or with violating any law against gaming in the house or rooms occupied by him, or with resorting to any house for any of said purposes, or who shall have a warrant for the arrest of any person charged with keeping open on Sunday any room, place, enclosure, or any building or structure of any kind or description in which it is reputed that spirituous and intoxicating liquors are exposed for sale, or with selling spirituous and intoxicating liquors in any place on Sunday, or for the seizure of spirituous and intoxicating liquors, may at any time, for the purpose

of gaining admission to such house, room, place, enclosure, building, or structure, or for the purpose of arresting any of the persons aforesaid, make violent entry into such house, room, place, enclosure, building, or structure, or any part thereof, after demanding admittance and giving notice that he is an officer and has such warrant, and may arrest any person so charged and take him before the proper authority. The county commissioners, sheriff of the county and any deputy-sheriff by him specially authorized, the chief of police of any city or any policeman by him specially authorized, may at any time enter upon the premises of any person licensed under this act to ascertain the manner in which such person conducts his business, and to preserve order.

SEC. 6. Whenever any spirituous and intoxicating liquors shall be found in the possession or under the control of any person who has received from the United States a license for the manufacture or sale of such liquors, or has paid to the United States a tax for such manufacture or sale covering the time when said liquors are so found, the existence of such United States license or the payment of said tax shall be *prima facie* evidence that said liquors are kept by said person with intent to sell the same.

SEC. 7. In all prosecutions in the superior court for the violation of any of the provisions of this act four peremptory challenges shall be allowed, both to the State and to the accused.

PART VIII. TOWN AGENTS.

SECTION 1. Whenever any town shall have voted by ballot at its annual town meeting that no person shall receive a license for the sale or exchange of spirituous and intoxicating liquors within said town, the selectmen of said town shall appoint in towns of not more than five thousand inhabitants, as established by the census of 1880, one suitable person to act as the agent of such town for the purchase and sale of spirituous and intoxicating liquors within the limits of said town, for sacramental, medicinal, chemical, and mechanical uses only; and in towns of more than five thousand inhabitants, as established by said census, said selectmen may, at their discretion, appoint one such agent for each five thousand inhabitants and to any fraction exceeding one-half thereof. Such selectmen, or a majority of them, may remove any such agent or agents at pleasure and appoint others in their stead. Every such agent shall hold his office for one year or until the next succeeding board of selectmen shall come into office, unless sooner removed. Such selectmen shall authorize the treasurer of said town to furnish to said agent the necessary money for the purchase of spirituous and intoxicating liquors for the use of said agency.

SEC. 2. No agent appointed under the provisions of the preceding section shall receive a certificate of appointment or authority from the selectmen, or shall exercise his office, until he shall have executed and delivered to the selectmen a bond to the treasurer of said town, with two good and sufficient sureties approved by said selectmen, in the sum of not less than five hundred dollars, which bond shall be forfeited to the town in case of the legal conviction of such agent of any violation of the rules in relation to his agency.

SEC. 3. Said agent shall sell or exchange such spirituous and intoxicating liquors only in the place designated for that purpose in writing by said selectmen, and, under penalty of forfeiture of the bond hereinbefore described, shall not sell any spirituous and intoxicating liquors to be drunk on the premises where sold. In the purchase and sale of such liquors he shall conform to such rules and regulations as said selectmen shall prescribe, the same not being inconsistent with the provisions of this act. He shall keep an accurate account of all his purchases and sales, specifying in such account the kind, quality, and price of the liquors bought by him, the names and residences of the persons of whom such purchases were made, the kind, quantity, and price of the liquors sold by him, the date of each sale made by him, the name and residence of the purchaser at every such sale, and the use for which the liquor at such sale was sold as stated by the purchaser ; which account shall be at all times open to the inspection of the selectmen, the prosecuting agents of the county, the grand jurors of such town, and the civil authority. And when required by such selectmen or a majority of them to do so, he shall fully account with them regarding all his dealings as such agent.

SEC. 4. He shall sell such liquors at not more than twenty-five per cent. advance upon the cost thereof, and shall, when required by the selectmen, pay over to the treasurer of the town the net profit of all his sales as such agent, and for his services as such agent he shall receive such fixed and stipulated compensation as the selectmen may prescribe, and the amount of such compensation shall not be increased or diminished by reason of any increase or diminution of the sales of such liquors by such agent.

SEC. 5. If any person purchasing any spirituous and intoxicating liquors of such agent shall intentionally make to such agent any false representations regarding the use to which such liquors are intended by such purchaser to be applied, the person so offending shall, upon conviction thereof, pay a fine of not less than fifty dollars, or be imprisoned not more than sixty days, or both.

PART IX. MISCELLANEOUS.

SECTION 1. All contracts, conveyances, liens, attachments, and

securities, any part of the consideration of which has been the illegal sale of spirituous and intoxicating liquors, shall be void ; and no action of any kind shall be maintained for the price of any spirituous and intoxicating liquors sold in any other State or country contrary to its law, or sold anywhere with the intent to enable any person to violate any law of this State relating to the sale of spirituous and intoxicating liquors, nor shall any action be maintained for the recovery of the possession of any spirituous and intoxicating liquors held by the owner or possessor thereof contrary to law, or for damages for the seizure of the same ; but the provisions of this section shall not affect the holder of any property or chose in action who may have taken the same in good faith and without notice of any defect in the inception or transfer of its title.

SEC. 2. This act shall supersede and repeal all acts and statutes now in force in this State concerning the sale of spirituous and intoxicating liquors, but this act shall not affect any prosecutions now pending or any offences heretofore committed. But the last vote upon the question of license shall remain in force until the next annual meeting in the respective towns, and, under such vote for license, licenses may be granted for the remainder of the current year, and all licenses heretofore granted, and bonds taken therefor, and all appointments of prosecuting agents heretofore made, shall remain in force for the times and upon the terms and conditions for and on which they were originally made.

Approved April 25, 1882.

NEW YORK.

An Act to Suppress Intemperance and to Regulate the Sale of Intoxicating Liquors.

PASSED APRIL 16, 1857, THREE-FIFTHS BEING PRESENT.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. There shall be appointed on the second Tuesday of May next, by the county judge and the two justices of the sessions, or a majority of them, of which the county judge shall be one, in each of the counties of this State (except the city and county of New York, wherein the chief justice of the superior court, and presiding judge of the court of common pleas, and the recorder of the city, or any two of them, shall appoint), at the place where the county courts are required to be held, three reputable freeholders, residents of the county, who shall be the commissioners of excise for their respective counties, and shall be known as the board of commissioners of excise. The said county judge and justices, and in the city of New York the chief justice of the superior court, the presiding judge of the court of common pleas, and the recorder of the city, shall meet at the time and place aforesaid, and divide the said commissioners into three classes by lot. The commissioner assigned to the first class shall hold his office until the first day of January, eighteen hundred and fifty-nine, the commissioner in the second class until the first day of January, eighteen hundred and sixty-one, and the commissioner in the third class until the first day of January, eighteen hundred and sixty-three, and one commissioner in every two years hereafter, as the term of office shall expire, shall be appointed on the second Tuesday of May in such year, at such place and by the authorities above provided, who shall hold his office for six years from the first day of January following his appointment. In case of a vacancy in the office of county judge, the appointment of commissioners shall be made by the justices of the sessions. In case of a vacancy by death or otherwise in the board of commissioners, such vacancy shall be filled by the said judge and justices, or by the said chief justice of the supe-

rior court, the presiding judge of the court of common pleas, and the recorder of the city of New York, for the unexpired term of such commissioner. Every commissioner, before he shall enter upon his duties, shall take and subscribe the oath prescribed by section one, article twelve of the constitution.

SEC. 2. The commissioners of excise shall meet in their respective counties at the place aforesaid on the third Tuesday of May in each year, and on such other days as a majority of the commissioners shall appoint, not exceeding ten days in any one year, and in the city of New York not exceeding fifty days, for the purpose of granting licenses as hereinafter prescribed. They shall have power to grant licenses to keepers of inns, taverns, or hotels, being residents of the town or city where such inn, tavern, or hotel is proposed to he kept, to sell strong and spirituous liquors and wines to be drunk in their houses respectively, and to store-keepers, being such residents, a license to sell such liquors and wines in quantities less than five gallons, but not to be drunk in their shops, houses, outhouses, yards, or gardens, and they shall have power to determine the sum to be paid for a license by each person applying, which sum shall be as follows: In towns and incorporated villages not less than thirty dollars nor more than one hundred dollars, and in cities not less than thirty dollars nor more than two hundred and fifty dollars; no license shall be granted to any person or firm to sell in more than one place.

SEC. 3. They shall keep a book of minutes of all their proceedings, in which shall be entered every resolution passed by them granting a license to any person, with the sum required to be paid, which minutes shall be verified by their signatures, and filed with the town clerk of the town for which such license shall be granted, and in the several cities of the State, with the city clerk, within eight days thereafter.

SEC. 4. All licenses shall be signed by the commissioners granting the same. They shall not be issued until the requirements fixed by the board shall have been complied with; when issued, they shall be in force, unless revoked, until ten days after the third Tuesday in May next succeeding the granting of such license, and in the city of New York until fifty days thereafter.

SEC. 5. Each of said boards of commissioners of excise shall have the right to appoint a clerk for the time they may be actually in session, in accordance with the provisions of this act, such clerk to receive the same compensation as is allowed by this act

to each of the commissioners. They shall keep a book of minutes of proceedings, on which shall be entered the names of all applicants for license, and they shall also enter on said book a list of all licenses granted, with the names of the parties to whom the same are granted, and the names of the securities to the bond required in each case. The said book of minutes shall be deposited in the office of the county clerk. No fee or reward shall be taken by any board of excise, or by any member thereof, or by any clerk thereof, for any license to keep an inn, tavern, or hotel, or to sell strong or spirituous liquors, or for any service required of such board, nor shall any compensation be retained by any such board, or by any member thereof, or by any clerk thereof, out of the excise money, but the whole amount thereof shall be paid over to the county treasurers for the use of the poor in the several counties; but the persons composing such board of excise shall be entitled each to receive the sum of three dollars per day for services actually performed, to be allowed and paid in like manner as other county charges, and no other or greater compensation shall be allowed. The expenses of procuring necessary books for minutes and necessary blanks, when actually incurred, shall be audited and paid in like manner as other county charges.

SEC. 6. License shall not be granted to any person to sell strong and spirituous liquors and wines to be drunk on the premises of the persons licensed, unless such person proposes to keep an inn, tavern, or hotel, nor unless the commissioners are satisfied that the applicant is of good moral character, that he has sufficient ability to keep an inn, tavern, or hotel, and the necessary accommodations to entertain travellers, and that an inn, tavern, or hotel is required for the actual accommodation of travellers at the place where such applicant resides or proposes to keep the same; all which shall be expressly stated in such license; and no such license shall be granted except on the petition of not less than twenty respectable freeholders of this State residing in the election district where such inn, tavern, or hotel is proposed to be kept, by them duly signed and verified by the oath of a subscribing witness, and not then unless in the opinion of the commissioners such inn, tavern, or hotel is necessary or proper, and not more than one license shall be granted on the memorial of the same petitioners or any of them. All petitions upon which such licenses shall be granted shall be filed with the county clerk within eight days. And in case the commissioners shall grant

any license contrary to the provisions of this act, they shall be deemed guilty of a misdemeanor.

SEC. 7. Nor shall such license to keep an inn, tavern, or hotel be granted until the applicant shall have executed and delivered to the board of commissioners of excise herein provided a bond to the people of this State, in the penal sum of two hundred and fifty dollars, with sufficient sureties who shall duly justify in the sum of five hundred dollars, to be approved by the board of commissioners, with a condition that such applicant, during the time that he shall keep any inn, tavern, or hotel, will not suffer it to be disorderly; or suffer any gambling, or keep a gambling-table of any description, within the inn, tavern, or hotel so kept by him, or in any outhouse, yard, or garden belonging thereto.

SEC. 8. Every keeper of an inn, tavern or hotel, in any of the towns or villages of this State, shall keep in his house at least three spare beds for his guests, with good and sufficient bedding, and shall provide and keep good and sufficient stabling, and provender of hay in the winter, and hay or pasturage in the summer, and grain for four horses or other cattle more than his own stock, for the accommodation of travellers; and every keeper of an inn, tavern, or hotel in the cities of this State shall keep at least three spare beds and the necessary bedding for the accommodation of travellers. For every neglect or default in having either of the articles herein required, such keeper shall forfeit ten dollars, to be recovered by the overseers of the poor for the use of the poor.

SEC. 9. Every inn, tavern, or hotel keeper licensed under the provisions of this act shall, within thirty days after obtaining his license, put up a proper sign on or adjacent to the front of his house, with his name thereon, indicating that he keeps an inn, tavern, or hotel, and he shall keep up such sign during the time that he keeps an inn, tavern, or hotel. For every month's neglect to keep up such sign he shall forfeit ten dollars.

SEC. 10. No inn, tavern, or hotel keeper who shall trust any person other than those who may be lodgers in his house, for any sort of strong or spirituous liquors or wines, shall be capable of recovering the same by any suit. All securities given for such debts shall be void, and the inn, tavern, or hotel keeper taking such securities, with intent to evade this provision, shall forfeit double the sum intended to be secured thereby.

SEC. 11. In all licenses that may be granted (excepting to inn, tavern, or hotel keepers) to sell strong or spirituous liquors or wines, in quantities less than five gallons, there shall be inserted

an express declaration that such license shall not be deemed to authorize the sale of any strong or spirituous liquor, or wine, to be drunk in the house or shop of the person receiving such license, or in any outhouse, yard, or garden appertaining thereto or connected therewith.

SEC. 12. Such license shall not be granted unless the commissioners are satisfied that the applicant is of good moral character, nor until such applicant shall have executed a bond to the people of this State in the penal sum of five hundred dollars, with sufficient sureties who shall duly justify in the sum of one thousand dollars, to be approved by the commissioners, and to be delivered to the commissioners, conditioned that during the term for which his license shall be granted he will not suffer his place of business to become disorderly; that he will not sell, or suffer to be sold, any strong or spirituous liquors or wines to be drunk in his shop or house, or in any outhouse, yard, or garden appertaining thereto; and that he will not suffer any such liquor, sold by virtue of such license, to be drunk in his shop or house, or in any outhouse, yard, or garden belonging thereto; and whenever any person is seen to drink in such shop or house, outhouse, yard, or garden belonging thereto, any spirituous liquors or wines forbidden to be drunk therein, it shall be prima facie evidence that such spirituous liquors or wines were sold by the occupant of such premises or his agent with the intent that the same should be drunk therein. On any trial for the offence last aforesaid, such occupant or agent may be allowed to testify respecting such sales.

SEC. 13. Whoever shall sell any strong or spirituous liquors or wines in quantities less than five gallons at a time, without having a license therefor, granted as herein provided, shall forfeit fifty dollars for each offence.

SEC. 14. Whoever shall sell any strong or spirituous liquors or wines to be drunk in his house or shop, or any outhouse, yard, or garden appertaining thereto, or shall suffer or permit any such liquors or wines sold by him, or under his direction or authority, to be drunk in his house or shop, or in any outhouse, yard, or garden thereto belonging, without having obtained a license therefor as an inn, tavern, or hotel keeper, shall forfeit fifty dollars for each offence.

SEC. 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall sell or give away any such liquors or wines to any Indian or apprentice, knowing or having reason to believe him to be such, without

the consent of his master or mistress, nor to any minor under the age of eighteen years, without the consent of his father, or mother, or guardian. Whoever shall offend against either of these provisions shall forfeit ten dollars, to be recovered by the master of such apprentice or servant, or by the parents or guardian of such minor; and any person who shall sell or give away any strong or spirituous liquor to any Indian in this State shall be deemed guilty of a misdemeanor, and on conviction shall be liable to a fine of twenty-five dollars for each and every offence.

SEC. 16. It shall be the duty of every sheriff, undersheriff, deputy sheriff, constable, marshal, policeman, or officer of police to arrest all persons found actually engaged in the commission of any offence in violation of this act, and forthwith to carry such person before any magistrate of the same city or town, to be dealt with according to the provisions of this act; and it shall be the duty of such magistrate, on sufficient proof that such offence has been committed, unless such person shall elect to be tried before such magistrate, to require a bond to be executed by such offender in the penal sum of one hundred dollars, with sureties who shall justify in double the amount severally, conditioned that such offender will appear and answer the charge at the next term of the court of oyer and terminer or sessions to be held in said county, and abide the order and judgment of the court thereon, or to commit such offender to the county jail until such judgment of said court, or until he be discharged according to law. And it shall be the duty of the magistrate to entertain any complaint of a violation of this act, made by any person under oath, and forthwith to issue a warrant and cause such offender to be brought before him, to comply with the provisions of this section; and such magistrate shall, within ten days, cause such bond, together with all papers and affidavits, with a list of the persons and residences of the complainants and witnesses examined before him, to be delivered to the district attorney of the county, whose duty it shall be forthwith to prosecute the same.

SEC. 17. It shall be the duty of every such officer, whenever he shall find any person intoxicated in any public place, to apprehend such person and take him before some magistrate of the same city or town; and, if such magistrate shall, after due examination, deem him too much intoxicated to be examined, or to answer on oath correctly, he shall direct said officer to keep him in some jail, lock-up, or some other safe and convenient place until he shall become sober, and thereupon forthwith bring him

before said magistrate; and, whenever any person shall be brought before any magistrate, as provided in this section, it shall be the duty of such magistrate to administer to such person an oath or affirmation, and examine him as to the cause of such intoxication, and to ascertain the person or persons who sold or gave the liquor to such person; such intoxication being hereby declared to be an offence against the provisions of this act, punishable, upon conviction, by a fine of ten dollars and costs at the same rate as in courts of special sessions, and imprisonment in the county jail, work-house, or penitentiary until paid, not, however, to exceed ten days. It shall be the duty of such officers to arrest, or cause to be arrested, all such persons when so intoxicated, and of the magistrate to entertain such complaints and make such examination, under the penalty of fifty dollars, with full costs of suit, for any neglect to comply with the provisions of this section.

SEC. 18. Whoever shall sell or give any strong or spirituous liquors or wines, or shall suffer any such liquors or wines to be sold or given away under his direction or authority, to any intoxicated person, shall forfeit not less than ten nor more than twenty-five dollars for each offence.

SEC. 19. It shall be the duty of magistrates and overseers of the poor in any town or city, on complaint and satisfactory proof by a wife that her husband is an habitual drinker of intoxicating liquors, to issue written notices to all dealers in intoxicating liquors against whom such complaint is made, forbidding the sale or giving of such liquor to such husband for the term of six months from the date of the notice, under a penalty of fifty dollars, with costs, for each and every sale or giving of such liquor after such notice shall have been given; to be sued for in her own name and for her own use. It shall be the duty of such magistrates and overseers of the poor to forbid the sale in like manner in all cases when a husband shall make like satisfactory proof concerning the wife, and all the provisions of this section shall apply the same in either case. It shall be the duty of magistrates and overseers of the poor, when like proof is made by a parent concerning a child who is a minor under the age of twenty-one years, or by a child concerning a parent, to forbid the sale in like manner; and all the provisions of this act shall apply as in other cases named above.

SEC. 20. It shall not be lawful, under the provisions of this act, to sell intoxicating liquors to any person guilty of habitual

drunkenness, nor to any person against whom the seller may have been notified by parent, guardian, husband, or wife from selling intoxicating liquors, and every party so selling or retailing intoxicating liquors shall, on proof thereof, before any court of competent jurisdiction, be deprived of his license to sell, and shall not be allowed a renewal of said license, and in addition, on conviction, shall be punished by a fine of not less than twenty dollars nor more than fifty dollars for each and every violation of the provisions herein set forth. If any inn, tavern, or hotel keeper, or any other person or persons whatsoever, knowingly (outside of any poor-house) shall sell or give to any pauper or inmate of any poor-house or almshouse strong or spirituous liquors or wines, such person or persons so offending shall be fined twenty-five dollars, and be guilty of a misdemeanor, and on conviction shall be imprisoned not more than sixty days.

SEC. 21. No inn, tavern, or hotel keeper, or person licensed to sell liquors, shall sell or give away any intoxicating liquors or wines on Sunday, or upon any day on which a general or special election or town meeting shall be held, and within one quarter of a mile from the place where such general or special election or town meeting shall be held in any of the cities, villages, or towns of this State, to any person whatever, as a beverage. In case the election or town meetings shall not be general throughout the State, the provisions of this section in such case shall only apply to the city, county, village, or towns in which such election or town meeting shall be held. Whoever shall offend against the provisions of this section shall be guilty of a misdemeanor, and on conviction shall be imprisoned in the county jail, work-house, or penitentiary not more than twenty days.

SEC. 22. The penalties imposed by this act, except the penalties provided for by sections eight, fifteen, and nineteen, shall be sued for and recovered in the name of the board of commissioners of excise, and paid over to the treasurer of the county for the support of the poor of the county.

SEC. 23. Every bond taken pursuant to the provisions of this act shall, within ten days after the execution of the same, be filed in the office of the clerk of the town or village in which the license shall be granted, and, in cities, in the city clerk's office.

SEC. 24. Whenever a breach of the condition of such bond, given upon the granting of any license, shall happen, it shall be the duty of the commissioners of excise, the supervisor of the town, mayor of the city, or trustees of the village in which the

person who shall incur the penalty shall reside to prosecute the same and recover the penalty therefor.

SEC. 25. Whenever any conviction or judgment shall be obtained against any person licensed to sell strong or spirituous liquors or wines, for any violation of the provisions of this act, either in a suit for a penalty, or in a suit upon a bond given by such person, it shall be the duty of the justice or court before whom the same shall be had to transmit to the next court of sessions of the county a statement of such conviction or judgment, and the offence for which it was obtained.

SEC. 26. The said court shall cause the person or persons against whom such conviction or judgment was obtained to be notified to appear on such day as the court shall appoint, to show cause why any such license that may have been granted to him or them should not be revoked. At the day appointed, and on such other days as the court shall appoint, it shall proceed to enquire into the circumstances, and shall revoke the license granted to the person or persons violating the provisions of this act.

SEC. 27. The person whose license shall be revoked shall be incapable of receiving any such license to sell strong or spirituous liquors or wines for the space of three years from the time of such revocation.

SEC. 28. Any person who shall sell any strong or spirituous liquors or wines to any of the individuals to whom it is declared by this act to be unlawful to make such sale shall be liable for all damages which may be sustained in consequence of such sale, and the parties so offending may be sued in any of the courts of this State by any individual sustaining such injuries, or by the overseers of the poor of the town where the injured party may reside, and the sum recovered shall be for the benefit of the party injured.

SEC. 29. It shall be the duty of courts to instruct grand jurors to enquire into all offences against the provisions of this act, and to present all offenders under this act, and also all persons who may be charged with adulterating imported or other intoxicating liquors with poisonous or deleterious drugs or mixtures, or selling the same, or with knowingly importing or selling intoxicating liquors or wines adulterated with poisonous or deleterious mixtures; which offences are hereby declared to be misdemeanors, to be punished by imprisonment in the penitentiary, work-house, or jail for a period of three months, and by a fine of three hundred dollars.

SEC. 30. In case the parties or persons whose duty it is, by the provisions of this act, to prosecute shall neglect to prosecute for any penalty provided by this act, for the period of ten days after complaint to them that any provision of this act has been violated, accompanied with reasonable proof of the same, any other person may prosecute therefor in the name of the board of commissioners of excise.

SEC. 31. All incorporated companies and persons in this State engaged in conveying passengers, including especially all railroad, steamboat, and ferry companies, and all kinds of corporations conveying for hire persons or property, shall be and hereby are required to refuse employment to all persons who, on good and sufficient proof, shall be shown to indulge in the intemperate use of intoxicating drinks, and any such company which shall retain in its employ any person or persons who shall on competent proof be shown to be intoxicated at any period whilst in the active service of any company or person, either as engineer, conductor, fireman, switch-tender, commander, pilot, mate, or foreman, or be in any way connected with the moving power or management, or whose duty, if neglected, would diminish the safety and security of life, limb, or property entrusted thereto, said company or corporation shall be liable to pay a sum of not less than fifty nor more than one hundred dollars to the county treasurer in the county where the offence may be committed and proved before any court of competent jurisdiction.

SEC. 32. In any judgment rendered or recovered on any bond to be given under this act, or for any penalty incurred under this act, the person or persons against whom such judgment shall be rendered shall not be entitled, under any execution issued on such judgment, to the liberties of the jail.

SEC. 33. Title nine of chapter twenty, of the first part of the Revised Statutes, and the act entitled "An Act for the prevention of intemperance, pauperism, and crime," passed April ninth, eighteen hundred and fifty-five, and all other acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 34. This act shall take effect immediately.

CHAP. 856.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO SUPPRESS INTEMPERANCE, AND TO REGULATE THE SALE OF INTOXICATING LIQUORS," PASSED APRIL SIXTEENTH, EIGHTEEN HUNDRED AND FIFTY-SEVEN. PASSED MAY 11, 1869; THREE-FIFTHS BEING PRESENT.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section sixteen of the "Act to suppress intemperance and to regulate the sale of intoxicating liquors," passed April sixteenth, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

SEC. 16. It shall be the duty of every sheriff, under-sheriff, deputy-sheriff, constable, marshal, policeman, or officer of police, to arrest all persons actually engaged in the commission of any offence in violation of this act, and forthwith to carry such person before any magistrate of the same city or town, to be dealt with according to the provisions of this act; and it shall be the duty of such magistrate, on sufficient proof that such offence has been committed, unless such person shall elect to be tried before such magistrate, and unless the offence charged be intoxication in any public place, to require a bond to be executed by such offender in the penal sum of one hundred dollars, with sufficient sureties, conditioned that such offender will appear and answer the charge at the next court of oyer and terminer, or sessions to be held in said county, and abide the order and judgment of the court therein, or to commit such offender to the county jail until such judgment of said court, or until he be discharged according to law.

And it shall be the duty of the magistrate to entertain any complaint of a violation of this act, made by any person under oath, and forthwith to issue a warrant, and cause such offender to be brought before him, to comply with the provisions of this section; and such magistrate shall, within ten days, cause such bond, together with all papers and affidavits, with a list of the persons and residences of the complainants and witnesses examined before him, to be delivered to the district attorney of the county, whose duty it shall be forthwith to prosecute the same.

SEC. 2. Section seventeen of the said act is hereby amended so as to read as follows:

SEC. 17. It shall be the duty of every such officer, whenever he shall find any person intoxicated in any public place, to apprehend such person, and take him before some magistrate of the same city or town, and, if such magistrate shall, after due examination, deem him too much intoxicated to be examined or to answer an oath correctly, he shall direct said officer to keep him in some jail, lock-up, or other safe and convenient place until he shall become sober, and thereupon forthwith to bring him before said magistrate, whose duty it shall then be forthwith to try him for such offence; and such person, when thus charged with intoxication in any public place, shall not be allowed his election to give a bond, as provided for in section sixteen of this act, for his appearance before the next court of oyer and terminer or sessions; and, upon his conviction by the magistrate of such offence, such person shall be fined not less than three nor more than ten dollars, in the discretion of the magistrate trying him, and costs at the same rate as in courts of special sessions, and imprisonment in the county jail, work-house, or penitentiary until paid, not, however, less than ten days nor to exceed six months; the offence of intoxication in any public place being hereby declared an offence against the provisions of this act, and punishable as above provided.

It shall be the duties of such officer to arrest, or cause to be arrested, all such persons when so intoxicated, and of the magistrate to entertain such complaints and make such examination, under the penalty of fifty dollars, with full costs of suit, for any neglect to comply with the provisions of this section.

SEC. 3. Nothing in this act contained shall apply to the Metropolitan Police District.

SEC. 4 All the provisions of this act as amended shall be held to apply to the sale of ale or beer, except so much thereof as forbids the granting of license to any person, except to such persons as propose to keep an inn, tavern, or hotel; and the Commissioners of Excise may, in their discretion, grant license for the sale of ale or beer, for a sum not less than ten dollars, to other than those who propose to keep an inn, tavern, or hotel; and the provisions of this act shall extend to all portions of the State, except the Metropolitan Police District.

SEC. 5. This act shall take place immediately.

CHAP. 175.

AN ACT REGULATING THE SALE OF INTOXICATING LIQUORS. PASSED APRIL 11, 1870; THREE-FIFTHS BEING PRESENT.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. There shall be a board of commissioners of excise in each of the cities, incorporated villages, and towns of this State. Such boards in cities shall be composed of three members, who shall be appointed as hereinafter provided. In incorporated villages, they shall consist of three members of the board of trustees, one of whom shall be president, to be annually designated by such board of trustees; and in towns, they shall consist of the supervisors and justices of the peace thereof, for the time being respectively. Any three members shall be competent to execute the powers vested in any town board, and, in case the office of supervisor be vacant or there be not two justices in the town, then the town clerk shall act in their places respectively.

SEC. 2. The mayor of each of the cities, except in the cities of New York and Brooklyn, shall appoint the commissioners of excise in their respective cities within ten days after the passage of this act; but in the cities of New York and Brooklyn the mayor shall nominate three good and responsible citizens to the board of aldermen of such cities respectively, who shall confirm or reject such nominations. In case of the rejection of such nominees, or any of them, the mayor shall nominate other persons as aforesaid, and shall continue so to nominate until the nominations shall be confirmed. The present commissioners of excise for the metropolitan district, and the commissioners for the counties, shall continue to exercise the duties of the office until such appointments, or some one of them, shall be appointed in such cities respectively, as herein provided. Any one or more of the commissioners so appointed shall have power to act as a board of excise for the city in which he shall be appointed, until the others shall be duly appointed. Commissioners of excise in cities shall hold their offices for three years, and until others shall be appointed in their places, and shall receive a salary not to exceed twenty-five hundred dollars a year each, to be fixed by the mayor and common council of their respective cities, and shall be paid as other city officers are paid. On the first Monday of April in every third year hereafter, the

mayor and board of aldermen shall proceed to appoint, in the manner above described, persons qualified as aforesaid to be such commissioners of excise in their respective cities for the next three years, commencing on the first day of May in that year, and shall, from time to time, as often as vacancies shall occur, appoint persons qualified as aforesaid to fill the unexpired term of any commissioners who shall die, resign, remove from the city, or be removed from office. Such commissioners of excise in cities shall be removed for any neglect or malfeasance in office, in the same manner as provided by law for the removal of sheriffs.

SEC. 3. The commissioners of excise shall meet in their respective cities, villages, and towns on the first Monday of May in each year, and on such other days as a majority of the commissioners shall appoint, not exceeding once each month in any year in any town or village, for the purpose of granting licenses as provided by law. In cities, they shall meet on the first Monday of each month, and as often as they shall deem necessary. All such licenses shall expire at the end of one year from the time they shall be granted.

SEC. 4. The board of excise in cities, towns, and villages shall have power to grant licenses to any person or persons of good moral character, who shall be approved by them, permitting him or them to sell and dispose of, at any one named place within such city, town, or village, strong and spirituous liquors, wines, ale, and beer, in quantities less than five gallons at a time, upon receiving a license fee, to be fixed in their discretion, and which shall not be less than thirty nor more than one hundred and fifty dollars. Such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the name or names of the applicant or applicants, and of every person interested or to be interested in the business to authorize which the license shall be used. Persons not licensed may keep, and, in quantities not less than five gallons at a time, sell and dispose of, strong and spirituous liquors, wines, ale, and beer, provided that no part thereof shall be drunk or used in the building, garden, or enclosure communicating with, or in any public street or place contiguous to, the building in which the same be so kept, disposed of, or sold.

SEC. 5. Licenses granted, as in this act provided, shall not authorize any person or persons to expose for sale, or sell, give away, or dispose of any strong or spirituous liquors, wines, ale, or beer, on any day between the hours of one and five o'clock in the

morning; and all places licensed as aforesaid shall be closed and kept closed between the hours aforesaid.

SEC. 6. The act entitled "An Act to regulate the sale of intoxicating liquors within the metropolitan police district of the State of New York," passed April fourteenth, eighteen hundred and sixty-six, is hereby repealed, and the provisions of the act passed April sixteenth, eighteen hundred and fifty-seven, except where the same are inconsistent or in conflict with the provisions of this act, shall be taken and construed as a part of this act, and be and remain in full force and effect throughout the whole of this State.

SEC. 7. In no town or village shall the commissioners of excise, created by this act, appoint a clerk of the board of excise. The pay of commissioners of excise in towns or villages shall be three dollars per diem. The moneys arising from licenses in any town or village shall be deposited with the county treasurer, within thirty days after receiving the same, to be expended under the direction of the board of supervisors at their next annual meeting, for the support of the poor of such town. Moneys arising from licenses in cities shall be paid into the treasuries of such cities respectively. The book of minutes kept by the commissioners of excise in any town or village, except when in use by such commissioners, shall be deposited in the clerk's office of such town or village. The expenses of procuring necessary books for minutes, and necessary blanks, in any town or village, when actually incurred, shall be audited and paid in like manner as other town or village charges.

SEC. 8. The provisions of this act as to the appointment of commissioners of excise in each of the cities of this State, their tenure of office, the supplying of vacancies, and their removal from office, shall not extend to the territory included in the Niagara frontier police district until the first day of January, in the year one thousand eight hundred and seventy-two. And at all times hereafter up to the last-mentioned day the board of police commissioners of the said police district shall continue to be the board of commissioners of excise in and for said district, and the territory embraced therein, as now provided by law, subject to the provisions of this act; and up to the time aforesaid all fees for licenses which shall be issued by the said board, and all fines and penalties herein provided for, shall be received by said board of police commissioners of said Niagara frontier police district, and shall be paid into the Niagara police fund, for the use and benefit thereof, as now provided by law.

SEC. 9. This act shall take effect immediately.

AMENDMENTS TO THE LIQUOR LAWS OF NEW YORK.

CHAP. 549.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT REGULATING THE SALE OF INTOXICATING LIQUORS," PASSED APRIL ELEVENTH, EIGHTEEN HUNDRED AND SEVENTY, AND THE ACT ENTITLED "AN ACT TO SUPPRESS INTEMPERANCE, AND TO REGULATE THE SALE OF INTOXICATING LIQUORS," PASSED APRIL SIXTEENTH, EIGHTEEN HUNDRED AND FIFTY-SEVEN. PASSED MAY 21, 1873; THREE-FIFTHS BEING PRESENT.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section two of the act entitled "An act regulating the sale of intoxicating liquors," passed April eleventh, eighteen hundred and seventy, is hereby amended by inserting after the words, "and shall be paid as other city officers are paid," the words following: *Provided that*, in the city of New York, the commissioners of excise shall receive a salary not to exceed five thousand dollars a year each, to be fixed by the board of estimate and apportionment of said city, who shall annually fix such amount as may be necessary for hire of employees, rent, and other necessary expenses of said board of commissioners, which amount shall be paid out of moneys received for licenses, and said commissioners shall receive no other compensation or emolument for their services as commissioners; and provided, further, that all moneys received for licenses in said city, under this act, shall be paid into the sinking fund for the payment of the principal of the city debt of said city, excepting such amounts as are otherwise appropriated by law.

SEC. 2. Section four of said act is hereby amended so as to read as follows:

SEC. 4. The board of excise in any city, town, or village shall have the power to grant license to any person or persons of good

moral character who shall be approved by them, permitting him or them to sell and dispose of, at any one named place within such city, town, or village, strong or spirituous liquors, wines, ale, and beer in quantities less than five gallons at a time, upon receiving a license fee, to be fixed in their discretion, and which shall not be less than thirty dollars nor more than one hundred and fifty dollars in any town or village, and not less than thirty dollars nor more than two hundred and fifty dollars in any city. Such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the name or names of the applicant or applicants, and of every person interested or to be interested in the business to authorize which the license shall be used; and the license shall be kept posted, by the person or persons licensed, in a conspicuous position in the room or place where his or their sales are made, and shall be exhibited at all times by the person or persons so licensed, and by all persons acting under such license, on demand, to every sheriff, constable, or officer, or member of police. Any omission so to display and exhibit such certificate shall be presumptive evidence that any person or persons so omitting to display and exhibit the same has and have no license. The said board of excise shall keep a complete record of the names of all persons licensed as herein provided, with a statement of the place licensed and license fee imposed and paid in each case, which record they shall at all times permit to be seen in a convenient place at their principal office in any city, or at the clerk's office in any town or village. Persons not licensed may keep, and, in quantities not less than five gallons at a time, sell and dispose of strong and spirituous liquors, wines, ale, and beer, provided that no part thereof shall be drunk or used in the building, garden, or enclosure communicating with or in any public street or place contiguous to the building in which the same be so kept, disposed of, or sold.

SEC. 3. Section five of said act is amended so as to read as follows:

SEC. 5. Licenses granted as in this act provided shall not authorize any person or persons to expose for sale, or sell, give away, or dispose of any strong or spirituous liquors, wines, ale, or beer, on any day between the hours of one and five o'clock in the morning. And all places licensed as aforesaid shall be closed and kept closed between the hours aforesaid and at all other times when such selling is not authorized by law. And it shall be the

duty of every sheriff, constable, policeman, and officer of police to enforce the observance of the foregoing provisions. Nothing herein contained shall be construed to prevent hotels from receiving and entertaining travellers at any time, subject to the restrictions contained in this act and the act hereby amended.

SEC. 4. Section eight of said act is hereby amended so as to read as follows:

SEC. 8. Any conviction for the violation of any provision of this act or of the acts hereby amended, by any person or persons licensed, or at any place licensed as herein provided, shall forfeit and annul such license. The board of excise of any city, town, or village may, at any time, and, upon the complaint of any resident of said city, town, or village, shall summon before them any person or persons licensed as aforesaid; and if they shall become satisfied that any such person or persons has or have violated any of the provisions of this act or of the acts hereby amended, they shall revoke, cancel, and annul the license of such person or persons, which they are hereby empowered to do, and, where necessary, to enter upon the premises and take possession of and cancel such license. Upon an enquiry, the said board, or the party complained of, may summon, and the said board may compel the attendance of witnesses before them, and examine them under oath.

SEC. 5. Section twenty-one of the act entitled "An act to suppress intemperance, and to regulate the sale of intoxicating liquors," passed April fifteenth, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

SEC. 21. No inn, tavern, or hotel keeper, or other person, shall sell or give away intoxicating liquors or wines on Sunday or upon any day on which a general or special election or town meeting shall be held, and within one-quarter of a mile from the place where such general or special election or town meeting shall be held, in any of the villages, cities, or towns of this State, to any person whatever, as a beverage. In case the election or town meetings shall not be general throughout the State, the provisions of this section in such case shall only apply to the city, county, village, or town in which such election or town meeting shall be held. Whoever shall offend against the provisions of this section shall be guilty of a misdemeanor, and shall be punished for each offence by a fine not less than thirty dollars nor more than two hundred dollars, or by imprisonment not less than five days nor more than fifty days, or both such fine and imprisonment, at the discretion of the court.

SEC. 6. Nothing herein contained shall in any manner apply to any city or town where the majority of voters have voted for or shall hereafter vote for local prohibition in accordance with any law providing for such voting, until such city or town shall reverse by vote such local prohibition.

SEC. 7. This act shall take effect immediately.

CHAPTER 820.

AN ACT to amend an act entitled "An Act to suppress intemperance, and to regulate the sale of intoxicating liquors," passed April sixteenth, eighteen hundred and fifty-seven.

PASSED June 23, 1873, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section twenty-two of the "Act to suppress intemperance, and to regulate the sale of intoxicating liquors," passed April sixteenth, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

"SEC. 22. The penalties imposed by this act, except those provided for by sections fifteen and nineteen, shall be sued for and recovered in a civil action in the manner provided by law for the recovery of penalties, by and in the name of the overseers of the poor of the town in which the alleged penalty was incurred; and the amount so recovered, when collected, together with all the costs of the proceedings for such recovery and collection, shall, within thirty days after such collection, be paid by the officer or party receiving the same to the county treasurer of the county, for the support of the poor of such county, except as is otherwise provided by law."

Section thirty of the said act is hereby amended so as to read as follows:

"SEC. 30. In case the parties or persons whose duty it is to prosecute for any penalty imposed for any violation of the provisions of this act shall, for the period of ten days after complaint to them that any person has incurred such penalty, accompanied with reasonable proof of the same, neglect or refuse to prosecute for such penalty, any other person may prosecute therefor in the name of the overseers of the poor of the town in which such alleged penalty was incurred, and in the manner provided by section twenty-two of this act, as the same is amended by section one of this chapter."

CHAPTER 444.

AN ACT to create a board of excise in the several towns of this State.

PASSED May 4, 1874, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. At the annual town meetings in the several towns in this State, held next after the passage of this act, there shall be elected, in the same manner as other town officers are elected, three commissioners of excise, who, while acting as such commissioners, shall not hold either of the offices of supervisor, justice of the peace, or town clerk, the office of president or trustee of any incorporated village; and who shall compose the board of excise of their respective towns, and discharge the duties imposed upon the supervisor and justice of the peace of towns, and the president and trustees of incorporated villages thereof, by chapter one hundred and seventy-five of the laws of eighteen hundred and seventy, and laws amendatory thereof and supplementary thereto; and shall be entitled to receive compensation at the rate of three dollars per day while in session, as a board of excise, which shall be a town charge, except in the counties where the moneys received by said board are paid into the county treasury as hereinafter provided, when it shall be a county charge. The commissioners first elected under this act shall be classified by lot, under the superintendence of the supervisor, the justice of the peace having the shortest time to serve, and the town clerk, or a majority of such officers, who shall meet at the office of the town clerk of their respective towns, for such purpose, within ten days after such town meeting, and the persons drawing for one, two, and three years shall serve for such terms respectively; and annually thereafter one commissioner of excise shall be elected for a term of three years. Vacancies occurring in said boards, from any cause, shall be filled by appointment by the supervisor and justices of the peace of said town, or a majority of them, until the next annual town meeting, when such vacancy shall be filled by election.

SEC. 2. The said commissioners shall be voted for upon a separate ballot, which shall be deposited in a separate box, marked "Excise," and, before entering upon the duties of their offices, shall take and subscribe the constitutional oath of office and file the same with the town clerk; and shall execute a bond to the supervisor thereof, to be approved by him in double the amount of the excise moneys of the preceding year, conditioned for paying over to him, or his immediate successor in office, within thirty days after the re-

ceipt thereof, all moneys received by them as such excise commissioners. Said moneys shall be disposed of as directed by the town board, except in those counties where the support of the poor is a county charge, where such excise money shall be paid into the county treasury, subject to the control of the board of supervisors.

SEC. 3. Nothing in this act shall affect the provisions of any special act in so far as the same provides for any special disposition of excise moneys or fines.

SEC. 4. This act shall take effect immediately.

SEC. 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall, either personally or by his wife, servant, employee, or other agent, sell or give any such liquors or wines to any Indian or apprentice, knowing or having reason to believe him to be such, or within the knowledge of such agent, without the consent of his master or mistress; nor to any minor under the age of eighteen years, without the consent of his father or mother or guardian. Whoever shall either personally or by his wife, servant, employee, or other agent offend against either of these provisions shall forfeit $10 for each and every offence, to be recovered by the master of such apprentice or servant, or by the parent or guardian of such minor; and any person who shall, either personally or by his wife, servant, employee, or other agent sell or give away any strong or spirituous liquor, ale, beer, or wine, to any Indian in this State, or shall sell or give away beer or ale or any spirituous liquors or wine to any minor under the age of fourteen years, knowing or having reason to believe him to be such age, shall be deemed guilty of a misdemeanor, and on conviction shall be liable to a fine $25 for each and every offence.

LANDLORD AND TENANT BILL.

Passed May, 1873.

CHAP. 583.

An Act to Define some of the Rights and Responsibilities of Landlords and Tenants.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Whenever the lessee or occupant other than the owner of any building or premises shall use or occupy the same, or any part thereof, for any illegal trade, manufacture, or other business, the lease or agreement for the letting or occupancy of such building or premises shall thereupon become void, and the landlord of such lessee or occupant may enter upon the premises so let or occupied, and shall have the same remedies to secure possession thereof as are given by law in the case of a tenant holding over after the expiration of his lease.

Sec. 2. The owner or owners of any building or premises knowingly leasing or giving possession of the same, to be used or occupied, in whole or in part, for any illegal trade, manufacture, or business, or knowingly permitting the same to be used for any illegal trade, manufacture, or business, shall be jointly and severally liable with the tenant or tenants, occupant or occupants, for any damage that may result by reason of such illegal use, occupancy, trade, manufacture, or business.

Sec. 3. This act shall take effect immediately.

CIVIL DAMAGE LAW.

THE following is the new Civil Damage Bill passed by the New York Legislature, May, 1873:

CHAP. 646.

AN ACT TO SUPPRESS INTEMPERANCE, PAUPERISM, AND CRIME.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Every husband, wife, child, parent, guardian, employer, or other person, who shall be injured in person, or property, or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her name against any person or persons who shall, by selling or giving away intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and any person or persons owning and renting or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, shall be liable, severally or jointly with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained and for exemplary damages; and all damages recovered by a minor shall be paid either to such minor or his or her parent, guardian, or next friend, as the court shall direct; and the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises.

SEC. 2. In any action arising for violations of the provisions of this act, any justice of the peace in the country where the offence is committed shall have jurisdiction to try and determine the same, providing the amount of damages claimed does not exceed two hundred dollars, in which case, and where the damages claimed do not exceed five hundred dollars, the justice of the peace before whom the action is commenced shall associate with himself any other two justices of the peace in the same county, who shall have jurisdiction to try and determine the same.

CHAPTER 420.

AN ACT to amend chapter six hundred and twenty-eight of the laws of eighteen hundred and fifty-seven, entitled "An Act to suppress intemperance and to regulate the sale of intoxicating liquors." Passed June 5, 1877, three-fifths being present.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section fifteen of chapter six hundred and twenty-eight of the laws of eighteen hundred and fifty-seven, entitled "An Act to suppress intemperance and to regulate the sale of intoxicating liquors," is hereby amended so as to read as follows:

SEC. 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall either personally, or by his wife, servant, employee, or other agent, sell or give any such liquors or wines to any Indian or apprentice, knowing or having reason to believe him to be such, or within the knowledge of such agent, without the consent of his master or mistress, nor to any minor under the age of eighteen years, without the consent of his father or mother or guardian. Whoever shall either personally, or by his wife, servant, employee, or other agent, offend against either of these provisions shall forfeit ten dollars for each and every offence, to be recovered by the master of such apprentice or servant, or by the parent or guardian of such minor; and any person who shall either personally, or by his wife, servant, employee, or other agent, sell or give away any strong or spirituous liquors, ale, beer, or wine, to any Indian in this State, or shall sell any beer, ale, wine, or any strong or spirituous liquor to any minor under the age of fourteen years, knowing or having reason to believe such minor to be under such age, shall be guilty of a misdemeanor, and on conviction shall be liable to a fine of twenty-five dollars for each and every offence.

SEC. 2. This act shall take effect immediately.

Extract from the decision of the Court of Appeals in 1860:

"The ravages upon the physical, intellectual, and spiritual condition of our race by the habitual use of intoxicating beverages, together with the labors for the last forty years of benevolent and philanthropic individuals to arrest the scourge by efforts to pro-

duce a revolution in the sentiments, practices, and habits of the community in respect thereto, and the several legislative enactments with the same end in view which have been the results of those labors and efforts, are all, as I think, matters of judicial cognizance, and are proper to be borne in mind and referred to in our examinations to ascertain the meaning and true interpretation of the statute now in force on the subject.

"Now that ale, strong beer, porter, and most of the fermented drinks known in this country, and which are sold at public-houses and groceries by the drink, can and do produce intoxication to a greater or less extent, and that such is the ordinary effect of their use as a beverage, no man of mature years, who is not strangely oblivious to surrounding and passing events, can have failed to observe. The fact is so patent that it is impossible to close our eyes against it. There is, in my opinion, one aspect in which the unrestrained sale of such liquors by the drink is far more injurious than that of distilled liquors. I allude to the temptation it presents to the reformed or reforming inebriate, who will much more readily yield to a draught of the former than of the latter, and thus fall a hopeless victim to the appetite which he had well-nigh conquered.

"Upon the whole, it seems to me but little short of absurd to contend that the excise law now in force should receive the construction contended for by the appellant, which would leave at least one-half of the evil intended to be remedied entirely untouched and unprovided against."

Court of Appeals, 1860. Opinion by WELLES, J.

DECISION OF THE COURT OF APPEALS, 1877.

The decision of the Court of Appeals in the case of Edwin S. Smith, given by Judge Folger, all the others concurring, is to the effect that the provisions of the act of 1857 which prohibit the sale of intoxicating liquors, to be drunk upon the premises, without having a license as a tavern-keeper, are still in full force and effect as a part of the excise law of the State.

CHAPTER 429.

AN ACT to regulate the use of intoxicating liquors in poor-houses, juvenile reformatories, protectories, houses of refuge, jails, penitentiaries, and prisons.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. It shall be unlawful to introduce into any poor-house, juvenile reformatory, protectory, house of refuge, jail, penitentiary, or prison, or to bring upon the premises thereof, any wine, alcoholic, malt, or intoxicating liquors, except upon the written requisition of the medical officer of such institution, or for any trustee, manager, officer, agent, employee, or other person connected with any such institution, or the inmates thereof, to use, to offer to others, or to allow to be used within any such institution or upon the premises thereof any wine, alcoholic, malt, or intoxicating liquors, except by the direction and prescription of the medical officer of such institution, who shall in every case of such prescription make a record of the name of the person and the cause for which such prescription is given in a book kept publicly for such purpose, which record shall be verified by the affidavit of such medical officer at least once in every six months.

SEC. 2. Any person violating this act, upon conviction thereof shall be deemed guilty of a misdemeanor.

SEC. 3. This act shall take effect immediately.

Passed May 27, 1880, three-fifths being present.

CHAPTER 340.

AN ACT to regulate the sale of intoxicating liquors in cities having a population of over three hundred thousand inhabitants.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The boards of commissioners of excise in the cities of this State having a population of over three hundred thousand inhabitants shall, if all other requirements of the law have been complied with, have power to grant license to sell strong or spirituous liquors, ale, wine, or beer, to be drank on the premises, to be named in the application for such license, to any person or persons having a good moral character, whether or not they propose to keep

an inn, tavern, or hotel, provided that no such license shall be granted unless the said commissioners shall be satisfied, upon examination, that the applicant therefor is a person of good moral character, and that a license may properly be granted for such sale in the place proposed.

SEC. 2. Any such board shall have at all times discretionary power to permit any person or persons, to whom a license may have been granted in respect of any specified premises, to remove to any other place within jurisdiction of the same board during the period covered by such license, and there to continue the conduct of business under such license in the same manner as if no removal had been made, provided always that such discretionary power shall not be exercised until and unless all the requirements of law to be observed upon the granting of an original license shall, upon said application for removal, be complied with and fulfilled in every respect.

SEC. 3. No person or persons having a license under this act, nor any assistant, agent, employee, or servant of any such person or persons so licensed, shall be arrested for any alleged violation of any provision of any excise law by any peace officer or other person, unless a warrant therefor, based on affidavit, shall have first been duly issued according to law, except and provided that in case of any violation of any provision of any excise law between the hour of one o'clock Sunday morning and the hour of twelve o'clock Sunday night, in presence of any officer or person authorized to make arrests for violation of law, such officer or person may forthwith and without warrant make arrest of the person or persons so violating any provision of any excise law. Any officer or person authorized to make arrests for violation of law may arrest, without warrant, any person who, in the presence of such officer or other person authorized to make arrests, may be engaged in the sale of any intoxicating liquor without a license.

SEC. 4. No city of this State having a population of more than three hundred thousand inhabitants shall hereafter be subject to or be embraced within any provision of the sixth section of the act, chapter six hundred and twenty-eight of the laws of eighteen hundred and fifty-seven, entitled "An act to suppress intemperance and to regulate the sale of intoxicating liquors," passed April 16, eighteen hundred and fifty-seven.

SEC. 5. Any person who shall, without a license, sell or give away any strong or spirituous liquors, ale, wine, or beer, to be drank upon the premises, shall be guilty of a misdemeanor. And nothing in this act contained shall alter or affect the provisions of existing laws touching the sale or giving away of intoxicating liquors to be drank upon the premises or the prohibition thereof in the cases mentioned

in said laws, and the penalties prescribed therefor, except as provided in section four of this act. And such provisions of existing laws as are applicable to persons who might thereby be licensed to sell intoxicating liquors to be drank upon the premises shall be applicable to persons who may be licensed under this act, except as such laws are modified by the terms of this act.

SEC. 6. This act shall take effect immediately.

STATE OF NEW YORK,
Office of the Secretary of State, } ss.:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

JOSEPH B. CARR,
Secretary of State.

Passed April 30, 1883; three-fifths being present.

NEW JERSEY.

AN ACT CONCERNING INNS AND TAVERNS.

SECTION 1. That any three or more of the judges of the inferior courts of common pleas in and for the several counties of this State shall be and they are hereby authorized to grant licenses to persons to keep inns and taverns, and to utter and sell victuals and vinous, spirituous, and other strong liquors for the accommodation of men, and provender for horses, within their respective counties, in the manner prescribed by this act, and not otherwise.

SEC. 2. That no person shall be licensed to keep an inn and tavern but such as shall be recommended by at least twelve reputable freeholders of the city or township where the said inn and tavern is proposed to be kept, who shall certify that the person so recommended by them is of good repute for honesty and temperance, and is known to the persons recommending to have at least two spare beds more than are necessary for the family's use, and is well provided with house-room, stabling, and provender; and it shall be the duty of the presiding judge, at the time of application made, and before the license is granted, to call upon the judges present to make known any facts or objections within their individual knowledge, if any there be, why such application should not be granted; and thereupon the court may, in their discretion, grant the license prayed for by the applicant.

SEC. 3. That no person shall be licensed to keep an inn or tavern unless the freeholders who shall recommend him or her shall also certify that such an inn or tavern is necessary and will conduce to the public good.

SEC. 4. That if any person who shall sign a recommendation, as aforesaid, shall therein have imposed on the court either by signing to an undeserved character or by describing a situation not true, or in any other manner, then every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in the sum of ten dollars, to be paid to the overseers of the poor where the said inn and tavern was proposed to be kept, and applied to the use of the poor of the township or precinct.

SEC. 5. That every person, before he or she shall receive a license to keep an inn and tavern, shall become bound by recognizance to the State in the sum of one hundred dollars as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court that shall grant the said license, with condition following, to wit:

"The condition of this recognizance is such that whereas the above-bounden A. B. is licensed by the court to keep an inn and tavern in the house where dwelleth, in the township or precinct of , in the county of , for the space of one year next ensuing. If, therefore, the said A. B., during the continuance of the said license, shall not keep a disorderly inn or tavern, nor game himself or herself, nor suffer any person to game in his or her house for money, or the value of money, nor violate the laws made concerning inns and taverns, but shall, during the said term, in all things respecting him or her as an innholder and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome, and sufficient lodging, diet, and entertainment for man and stabling and provender for horse, and observe the directions of the law relating to inns and taverns, then this recognizance to be void, or else to remain in full force and virtue.

"And if the applicant for a license to keep an inn and tavern shall be prevented by sickness, infirmity, or other reasonable cause, to be judged of and allowed by the said court, from attending in person, then the said court may grant the license on three sureties, as aforesaid, entering into such recognizance in sixty dollars each; all recognizances taken by virtue of this section shall be and remain with the clerk of the court before whom the same shall be taken."

SEC. 6. That the recognizance required by the fifth section of this act may be taken by any judge of the said court of common pleas, out of court, and being signed by such judge, and filed by the clerk, shall have the same force and effect as if the same had been taken in open court.

SEC. 7. That it shall be lawful for the said court to demand and receive for every such license granted and recognizance taken the sum of one dollar; and for the clerk of the court to demand and receive for entering, drawing, and filing such recognizance, and drawing the license and annexing thereto the seal of the court, and making entry in the minutes of such license being granted, the sum of one dollar.

SEC. 8. That every license to keep an inn and tavern shall be signed by the clerk of the court which granted the same, and shall have the seal of the said court thereto affixed by the said clerk; which license shall be in the words, or to the effect, following:

" county, to wit:

"At an inferior Court of Common Pleas, in and for the said county, held at in the same, the day of in the year of our Lord one thousand .

"The said court doth hereby allow and license A. B., of the township of in the county aforesaid, to keep an inn and tavern, in the house wherein dwells, for one whole year from the day above said, and no longer; so that the said A. B. shall use and exercise this license, during the said term, according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court, the day and year first above written.

"C. D., *Clerk.*"

SEC. 9. That no license shall entitle any person to keep an inn and tavern in any other place than that in which it was first kept by virtue of such license; and such license with regard all other places and persons shall be void.

SEC. 10. That no license shall authorize any innholder, tavern-keeper, or any person, by his or her authority or permission, to sell, or to keep and expose for sale, any rum, gin, brandy, whiskey, cider spirits or other ardent spirits, wine, or any other liquid of which distilled spirits or wine shall form a component part, in any bar, stand, or other place out of the inn or tavern house for which license shall have been granted according to law; and any person offending against the provisions of this section shall be considered as keeping a disorderly house, and forfeit his or her license and recognizance, and shall be liable to all the penalties imposed by law for selling without license.

SEC. 11. That from and after the passage of this act, all and every person applying to any court authorized by law to grant license to keep an inn and tavern shall make his or her application to the court for said purpose on the first day of the session of said court; and the said court shall, on the first day of said session, or on some other day thereof, publicly fixed on by the said court on the said first day, determine in open court on said application, by granting or refusing the same.

SEC. 12. That every license to keep an inn and tavern shall be made to continue for one year, and no longer; but may be renewed yearly by the said courts, upon the like recommendation, penalties, assessments, and fees, and in the same manner in every respect as when such license was originally granted; and, further, if any person who, at the expiration of his or her license, shall neglect or refuse to renew the same in manner aforesaid, shall notwithstanding sell and retail vinous, spirituous, or strong liquors, then such per-

son shall be subject to the like penalties as for selling without license.

SEC. 13. That it shall be the duty of, and it is hereby expressly enjoined upon, the said courts to license no more inns and taverns in their respective counties than shall be necessary to accommodate and entertain travellers and strangers, to serve the public occasions of the said counties, and for the convenience of men's meeting together to transact business; and to prevent, as much as possible, inns and taverns to be kept for the encouragement of gaming, tippling, drunkenness, and other vices.

SEC. 14. That the said courts shall not grant a license to keep an inn and tavern to any sheriff, under-sheriff, or jail-keeper.

SEC. 15. That the said court shall not grant a license to any shopkeeper to keep an inn and tavern; neither shall any inn and tavern and shop for selling goods, wares, and merchandise be kept in one house; and if any shopkeeper shall give or retail strong liquors so as to encourage drunkenness, revelling, or frolicking in his or her house or store, he or she shall forfeit sixteen dollars for every such offence, to be recovered with costs, by action of debt, by any person who will prosecute for the same, in any court of record having cognizance of that sum. *Provided*, however, that nothing in this section shall be so construed as to prevent the keeping of an inn and tavern and shop for the selling of goods, wares, and merchandise under the same roof, in any city, borough, or town corporate in this State, where the house is so constructed that the shop and tavern (though under the same roof) shall be entirely distinct, without any communication existing between them, and where the tavern and shop shall be kept by different persons, neither of whom have an interest in, or connection with, the business of the other.

SEC. 16. That every inn-holder and tavern-keeper shall have and keep in his or her house at least two good feather-beds for guests, with good and sufficient bedclothes for the same, and provide and keep good, wholesome, and sufficient diet for travellers, and stabling and provender of hay and grain for four horses more than his or her own stock, upon pain of forfeiting for every neglect or default of having any of the articles in this cause mentioned the sum of three dollars, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person or persons who shall prosecute for the same.

SEC. 17. That every person to whom the court shall see cause to grant a license to keep an inn and tavern, shall, before the delivery of the said license to him or her, pay to the clerk of the said court such sum as the said court shall assess thereon; and the said court shall take into consideration the situation and circumstances of the

place where the inn and tavern is intended to be kept, as affording more or less profit to the applicant, and agreeably thereto shall ascertain the sum to be paid for every license, not being less than ten nor more than seventy dollars; and no license shall be delivered to any person unless the money so assessed for the same shall have been paid to the clerk of the court.

SEC. 18. That it shall be the duty of every clerk of the said courts to make and enter upon the minutes of the said courts a true account of the moneys which he shall from time to time receive upon licenses granted for inns and taverns, and to pay the same moneys within two weeks after the receipt thereof to the collector of the county, to and for the use of the said county, accompanied with a copy of the account thereof from the minutes, signed by at least three of the judges present, a duplicate of which account, signed as aforesaid, the said clerk shall also transmit to the clerk of the board of chosen freeholders of the said county.

SEC. 19. That it shall be the duty of every county collector to lay yearly, and every year, before the board of chosen freeholders of such county, at their annual meeting, an accurate state and account of the moneys which he shall have received from the clerk aforesaid upon licenses for inns and taverns, together with the settlement he shall have made with the said clerk for such moneys.

SEC. 20. That the said clerks shall at all times be accountable to the board of chosen freeholders for the moneys which they shall receive for licenses as aforesaid to and for the use of the said counties respectively.

(Sec. 21 repealed.)

21. SEC. 22. That every innholder and tavern-keeper shall, within twenty days after obtaining his or her license, put up or fix a sign on or adjacent to the front of his or her house, with his or her name thereon, and keep such sign up during the time he or she shall keep an inn and tavern, under the penalty of one dollar for every month's neglect thereof, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person or persons who shall prosecute for the same.

22. SEC. 23. That it shall be deemed an offence against this State for any innholder or tavern-keeper to permit or suffer any cock-fighting or playing with cards or dice, or to keep any billiard-table or other gaming-table, in his or her inn or tavern, or in any out-house, tenement, yard, or garden belonging thereto, or therein to permit any kind of gaming by lot or chance. (See section 48.)

23. SEC. 24. That it shall be the duty of the said courts, within their respective counties, to revoke or annul any license by them granted to any person to keep an inn and tavern, in case such person

shall offend against any section or part of this act, or shall not observe the directions thereof, or shall not do all and every the matters and things therein prescribed and enjoined to be done; and if such person, after a copy of the rule or order of the said court revoking or annulling his or her license shall have been served on him or her, shall notwithstanding continue to sell or retail any vinous, spirituous, or strong liquors, then such person shall be liable to the like penalties as for selling without license.

24. SEC. 25. That if any innholder or tavern-keeper shall sell any vinous, spirituous, or strong liquors to any apprentice or servant, knowing, or having reason to suspect or believe, him or her to be such, without the consent of his or her master or mistress, such innholder or tavern-keeper shall for every offence forfeit the sum of four dollars, to be recovered by action of debt, with costs, by the master or mistress of such apprentice or servant, in any court of record having cognizance thereof.

25. SEC. 26. That if any innholder, tavern-keeper, or other person or persons shall take or receive, directly or indirectly, from any apprentice or servant, any clothing or other goods, chattels, wares, or merchandise, in payment for any vinous, spirituous, or strong liquors, or in pawn or pledge to secure such payment, then he, she, or they so offending shall forfeit and pay unto the master or mistress of such apprentice or servant treble the value of all such clothing or other goods, chattels, wares, or merchandise which he, she, or they shall have so taken or received as aforesaid, to be recovered by such master or mistress, his or her executors or administrators, by action of debt or on the case, with costs, in any court having cognizance of the same.

26. SEC. 27. That if any innholder and tavern-keeper shall trust or give credit to any person or persons for vinous, spirituous, or strong liquors, he, she, or they, so trusting or giving credit to any person or persons as aforesaid, shall lose the debt, and be for ever disabled from suing for or recovering the same or any part thereof; and if any innholder and tavern-keeper shall sue for any such debt, the person or persons sued shall and may plead this act in bar; and if the plaintiff in such suit shall become nonsuit, or a verdict or judgment shall be given for the defendant, then such plaintiff shall pay double costs (a).

27. SEC. 28. That if any innholder and tavern-keeper shall take or get from any person or persons trusted as aforesaid any note, bill, bond, or other security for any vinous, spirituous, or strong liquors, sold and drunk in or at his or her house under pretence that it is for victuals or any other thing, whereby to evade this act, then every such note, bill, bond, or other security shall be void; and the

defendant or defendants may plead this act in bar to any action or suit to be brought thereon.

28. SEC. 29. That nothing in this act shall be construed to debar any innholder and tavern-keeper from taking, receiving, or recovering any sum or sums of money which shall become due and owing to him or her, from persons who may be lodgers in his or her house, or from travellers not residing in the town, city, precinct, or township where such inn and tavern is kept.

29. SEC. 30. That it shall be the duty of every justice of the peace, on view, complaint, or information that any innholder and tavern-keeper hath committed any act or thing, or hath neglected, omitted, or refused to observe or do any act or thing, whereby in the judgment of said justice the recognizance aforesaid may be forfeited or the condition thereof broken, to require, by summons under his hand and seal, such innholder and tavern-keeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant or any other person in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury which shall there attend for the trial of traverses, or some other jury of good and lawful men to be then and there empanelled by the sheriff, to enquire thereof; and if the jury find that such innholder and tavern-keeper hath done, or hath neglected, omitted, or refused to observe or do, any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty, which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final with costs shall be given against the recognizers as in case of debt, and execution shall issue thereon accordingly; and, further, that the sheriff shall pay the money which he shall have received by virtue of such execution into the treasury of this State, at the time and in the manner prescribed by law in regard to penalties and forfeited recognizances and fines and amercements, and shall be entitled to the fees and subject to the penalties and actions thereby prescribed. *Provided*, that the said court at the request of the attorney-general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on reasonable cause shown, adjourn the trial of such complaint or information to the then next sessions or term.

30. SEC. 31. That if any innholder and tavern-keeper shall be convicted of being drunk in his own inn and tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void.

31. SEC. 32. That this act shall not be construed to prevent any innholder and tavern-keeper who, before the passing thereof, was licensed according to law, from acting as such during the term for which his or her license shall have been granted, subject, nevertheless, to the like conditions, duties, pains, and penalties as if this act had not been made.

32. SEC. 33. That nothing in this act contained shall be taken, deemed, or construed to alter, change, or in any manner affect the rights, powers, privileges, and immunities given and granted by law to any city or town corporate in this State relative to the licensing of inns and taverns within their respective cities or towns corporate, such cities or towns corporate nevertheless conforming to the directions and being subject to the limitations, restrictions, and provisions herein contained and given to the inferior courts of common pleas in the several counties of the State, except that the recommendation for a license in such cities or towns corporate shall be signed by at least ten reputable freeholders residing therein.

33. SEC. 34. That it shall not be lawful for any person not having a license to keep an inn and tavern to put or keep up on or near his or her dwelling-house any sign or other device usually employed to denote the keeping an inn or tavern, and every person so offending shall forfeit and pay five dollars for every month that the same shall be so kept up, to be recovered by action of debt, with costs, by any person who shall sue for the same before any justice of the peace in the county where the offence shall be committed.

34. SEC. 35. That it shall be and it is hereby made the duty of the clerks of the courts of general quarter sessions of the peace in the several counties of this State, at least once in every year, or oftener, if thereunto required by the grand jury duly empanelled for any county, to make out a list of the names of all the persons within the said county who shall have a license to keep an inn and tavern, and to lay the said lists before the grand jury of said county on the first day of their meeting.

35. SEC. 36. That whenever any of the inferior courts of common pleas, in and for any of the counties in this State, shall reject and refuse to grant the application of any person or persons for license to keep an inn and tavern, under the provisions of this act, it shall not be lawful for such person or persons whose application to keep such inn and tavern shall have been rejected by the court aforesaid, to apply again for said license at any time within one year thereafter.

(Section 37 repealed. See crimes, section 60.)

36. SEC. 38. That in all indictments hereafter found upon this act, it shall be sufficient to describe the liquor sold as ardent spirits without specifying particularly the kind or description thereof (a).

37. SEC. 39. That if any person or persons shall, without a license for that purpose, first had and obtained according to law, sell by retail any rum, brandy, wine, or spirits of any kind, or any other liquid of which distilled spirits shall form a component part (except such as are compounded and intended to be used for medicine), under the quantity of one quart, he or she so offending shall forfeit and pay for every such offence ten dollars, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person who may prosecute for the same, in the name of the overseer or overseers of the poor of the township in which such offence may take place, one-half for the benefit of the person so prosecuting, and the residue for the use of the poor of such townships. *Provided*, that such prosecution shall be commenced within six calendar months after said offence shall have been committed; provided, also, that nothing in this act contained shall be so construed as to prevent or impair any prosecution or proceeding by indictment under this act (a).

(Section 40 repealed. See crimes, section 62.)

38. SEC. 41. That if any sheriff shall knowingly permit any under-sheriff, jailer, or other person to sell in the court-house or jail of the county of which he is sheriff any wine, gin, whiskey, cider, spirits, brandy, or other ardent spirits, or any composition of which any of the said liquors shall form the chief ingredient, he shall for every such offence forfeit and pay the sum of fifty dollars, one-half to the use of the person prosecuting for the same, and the other half to the use of the county in which the said offence was committed, to be recovered by action of debt, in any court of competent jurisdiction, with costs of suit.

39. SEC. 42. That when any suit shall be commenced against any sheriff for violation of the forty-first section of this act, if it shall appear upon the trial that the said offence was committed during the sitting of any of the courts in the court-house, such fact shall be deemed and taken as conclusive evidence of the knowledge of the said sheriff in that behalf.

40. SEC. 43. That it shall not be lawful for any under-sheriff, jailer, or other person or persons who may occupy the court-house or jail of any of the counties in this State to keep the same as a house of public entertainment, and sell, or permit to be sold, therein food or provisions of any kind after the manner of licensed innkeepers; and if any person or persons shall offend against the provision of this section, he, she, or they shall forfeit and pay for every offence the sum of twenty-five dollars, to be recovered by any person prosecuting for the same, one-half to the use of the person so prosecuting, and the other half to the use of the county in which

the said offence was committed, to be recovered by action of debt in any court of competent jurisdiction, with costs of suit.

41. SEC. 44. That in any suit which may be brought under this act, the inhabitants of the county in which said suit may be brought shall be deemed and taken as competent witnesses.

42. SEC. 45. That the freeholders required to recommend to the courts suitable persons for license to keep inns and taverns shall be such as shall not have recommended any other application for a license under the second section of this act, in the same township, city, or borough, for the same year.

43. SEC. 46. That it shall and may be lawful for the inferior courts of common pleas of the several counties in this State to grant licenses to keep temperance inns and taverns in said counties, on applications of similar form, and accompanied by like recommendations as are required by this act, excepting that applications for such temperance licenses shall distinctly state the intention of the applicant to keep a temperance house.

44. SEC. 47. That the license to be issued on such application shall be in the following form:

" county, to wit:

"At the inferior court of common pleas, in and for the said county, held at in the same, the day of in the year of our Lord one thousand . The said court do hereby allow and license A. B., of the township of , in the county aforesaid, to keep a temperance inn and tavern in the house wherein dwells, for one whole year from the day aforesaid, and no longer; so that the said A. B. shall use and exercise this license during the said term according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court the day and year first above written.

"C. D., *Clerk.*"

45. SEC. 48. That every person, before he or she shall receive a license to keep a temperance inn and tavern, shall become bound by recognizance to the State in the sum of one hundred dollars as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court that shall grant the said license, with condition following, to wit: "The condition of this recognizance is such that, whereas the above-bounden A. B. is licensed by the court to keep a temperance inn and tavern in the house where dwelleth, in the township or precinct of , in the county of , for the space of one year next ensuing; if, therefore, the said A. B., during the continuance of the said license, shall not keep a disorderly inn or tavern, nor game himself or herself, nor suffer any person to game,

in his or her house for money or the value of money, nor keep, offer, sell, or otherwise dispose of in his or her house, nor in any out-house, yard, or garden connected therewith, any vinous, fermented, spirituous, or strong or intoxicating liquors, nor violate the laws made concerning inns and taverns, but shall during the said term, in all things respecting him or her as an innkeeper and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome, and sufficient lodging, diet, and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to inns and taverns, then this recognizance to be void, or else to remain in full force and virtue."

46. SEC. 49. That the applicant for such license to keep a temperance inn and tavern shall pay to the court and clerk the same fees for said license, recognizance, and rates as are provided for in the seventh and twenty-first sections of this act, but shall be wholly exempt from the tax imposed and provided for in the seventeenth section of said act.

47. SEC. 50. That the said courts of common pleas shall exercise the like discretion in granting such license, and in prescribing rates for the regulation of prices under the same, as is provided for in this act.

SUPPLEMENT.

Approved April 17, 1868.

48. SECTION 1. That so much of the twenty-third section of the act entitled "An Act concerning Inns and Taverns," approved April seventeenth, eighteen hundred and forty-six, as makes it an offence against this State for any innholder or tavern-keeper to keep any billiard-table in his or her inn or tavern, or in any out-house, tenement, or garden belonging thereto, be and the same is hereby repealed.

SUPPLEMENT.

Approved March 16, 1869.

49. SECTION 1. That it shall be unlawful for any person or persons to sell or expose for sale any spirituous, vinous, fermented, or other intoxicating liquors, in any quantity whatever, in or from any wagon, carriage, sleigh, or other ambulating conveyance whatever; and any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding twenty dollars for each offence, together with the costs of prosecution.

SUPPLEMENT.

Approved March 26, 1874.

50. SECTION 1. That none of the provisions of the thirty-seventh section of the act entitled "An Act concerning Inns and Taverns," approved April seventeenth, eighteen hundred and forty-six, or of the act entitled "A Supplement to an act concerning Inns and Taverns," approved March third, eighteen hundred and forty-seven, which supplement was approved March eighth, eighteen hundred and forty-eight, or of the act entitled "A further Supplement to an act entitled 'An Act concerning Inns and Taverns,'" approved February twentieth, eighteen hundred and forty-nine, shall hereafter apply to offences committed in any of the incorporated cities of this State, the ordinances of which provide for the punishment of the unlicensed sale of spirituous liquors, and for the punishment of the sale of spirituous, malt, vinous, fermented, or intoxicating liquors on Sunday.

51. SEC. 2. That where the ordinances of any incorporated city of this State shall provide for the punishment of the offence of keeping a disorderly house, it shall not hereafter be lawful to prosecute by indictment any person accused of keeping a disorderly house in such city, where the alleged offence consists only of the continuous or frequent violation of the provisions of the acts mentioned in the first section of this act, or any of them, but any person so offending shall be prosecuted and punished only under and by virtue of the provisions of such ordinances.

AN ACT TO REGULATE THE SALE OF ALE, STRONG BEER, LAGER, PORTER, WINE, AND OTHER MALT LIQUORS IN THE STATE OF NEW JERSEY.

Approved April 4, 1872.

52. SECTION 1. That it shall not be lawful to sell ale, strong beer, lager-beer, porter, wine, or any other malt liquors (except where the same is compounded and sold as a medicine) in quantities less than a quart, if the same is drunk on or about the premises where sold, in the State of New Jersey, without a license first had and obtained for that purpose from the Judges of the Court of Common Pleas of the county, or from the other authorities now having power by law to grant license.

53. SEC. 2. That a written application for the license shall be made and signed by the applicant, stating the kind or kinds of malt liquors he proposes to sell, and the place or township where he proposes to locate his place of business, which application shall also be

signed by ten freeholders of the township, who have not signed another petition or application, where he proposes to locate his saloon or shop, who shall recommend said applicant as a sober and honest man, after which shall follow an affidavit of applicant that said persons recommending him are freeholders of said township, and that he will keep a quiet and orderly house according to the requirements of the law.

54. SEC. 3. That every person, before he or she shall receive such license, shall become bound by recognizance to the State in the sum of one hundred dollars as principal, with two sufficient sureties being freeholders in the county, in the sum of fifty dollars each, with condition following, to wit: The condition of the recognizance is such, that whereas the above-bounden is licensed by the court to sell malt liquors in the house at , in the township of , in the county of , for the space of one year next ensuing; if, therefore, the said , during the continuance of his license, shall not keep a disorderly house, nor violate the provisions of this or other laws against encouraging and harboring drunken persons, vagrants, idle and vicious persons, thieves, gamblers, prostitutes, and other disorderly persons, but shall in all things respecting him or her use and maintain good order and rule, and observe the directions of the law, then this recognizance to be void, or else to remain in full force and virtue.

55. SEC. 4. That this recognizance may be taken before any judge of common pleas out of court, master in chancery, or supreme court commissioner, and being signed by said applicant, sureties, and acknowledged before said officer, and filed by the clerk of said court of common pleas, shall have the same force and effect as if the same had been taken in open court.

56. SEC. 5. That the officers taking such recognizance shall be entitled to the sum of fifty cents; the court, for inspecting paper and granting license, the sum of one dollar; and the clerk of the court, for drawing and filing such recognizance, drawing license and affixing thereto the seal of the court, and making entry in the minutes of such license, shall demand and receive the sum of two dollars.

57. SEC. 6. That every license to sell malt liquor shall be signed by the clerk of the court granting the same, and shall have the seal of said court affixed thereto by said clerk; which license shall be in the words and to the effect following, viz.: " county, to wit: At an inferior court of common pleas, in and for said county, held at , in the same, the day of , in the year of our Lord one thousand , the said court doth hereby allow and license , of the township of , to sell malt liquors

in the place he now keeps, for one whole year from day aforesaid and no longer, so that said shall use and exercise this license during the said term according to the just and true meaning of the laws in such cases made and provided. Given under my hand and the seal of said court, the day and year first above written.

, *Clerk.*"

58. SEC. 7. That no license shall entitle a person to keep and sell malt liquors in any other place than that in which it was first kept by virtue of such license, and such license, with regard to other places and persons, shall be void.

59. SEC. 8. That application for license under this act shall be made on the first day of the session of such court, and the said court shall, on that day, or on some other day publicly fixed by said court on said first day, determine in open court on said application, by granting or refusing the same.

60. SEC. 9. That every such license shall be made to continue for one year, and no longer, but may be renewed yearly by said court upon like recommendation, penalties, assessments, and fees as when such license was first granted.

61. SEC. 10. That every person licensed under this act shall, before license is delivered to him, pay the clerk of the court such sum as the court shall assess, which shall not be less than ten nor more than fifty dollars; and no license shall be delivered to any person unless the money so assessed for the same, and all fees, shall have been paid to the clerk.

62. SEC. 11. That it shall be the duty of the clerk to enter in the minutes of said court a statement of all persons licensed and place of location, together with sums assessed for said licenses, and date of receiving the same, and within one month after receipt of such moneys shall pay them over to the county collector for the use of the county.

63. SEC. 12. That if any person or persons shall, without a license for that purpose first had and obtained according to this act, sell, or cause or knowingly permit to be sold, directly or indirectly, any ale, strong beer, porter, lager-beer, wine, or other malt liquors (except such as are compounded and sold as a medicine), under the quantity of one quart, if the same is drunk in, on, or about the premises where sold, then he or she so offending shall forfeit and pay for every such offence the sum of fifty dollars, to be recovered by action of debt, with cost, by any person who shall sue for the same, in any court of record having cognizance of that sum, one-half to the prosecutor and the other half to the inhabitants of the county.

64. SEC. 13. That, in addition to the penalties imposed in section twelve of this act, if any person or persons shall sell any of the

liquors aforesaid, without license first had and obtained according to this act, or shall sell on Sunday (*a*), then such persons or persons shall be held as a keeper or keepers of disorderly houses, and shall be liable to indictment as keepers of disorderly houses, and, upon conviction, shall be subject to like pains and penalties as are now imposed by law on keepers of gambling houses, houses of prostitution, and other common nuisances.

65. SEC. 14. That the provisions of this act shall not apply to any township, city, or incorporated town in which laws are in force regulating the sale of any of the liquors mentioned in this act.

AN ACT TO PREVENT THE USE OF SPIRITUOUS LIQUORS AT VENDUES.

Passed February 11, 1797.

66. SECTION 1. If any person who shall make any vendue in this State shall give or sell, or suffer to be given or sold, in order to be drunk at the time and place of such vendue, any vinous, spirituous, or other strong liquors, such person so offending shall forfeit twenty dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court of record having cognizance of that sum, one-half to the prosecutor and the other half to the overseers of the poor of the township or precinct where the offence was committed, for the use of the poor thereof.

67. SEC. 2. *Provided* this act shall not extend to any vendue made or held at any inn or tavern by any civil officer.

SUPPLEMENT.

Approved April 11, 1867.

71. SECTION 1. In cases where no newspapers shall be published in any city, town, or township where any hotel, inn, or boarding-house shall be kept, the sale provided for in the second section of the act to which this is a supplement may be made upon a notice published for three days in a public newspaper published in the county where such hotel, inn, or boarding-house shall be kept, and circulating in the neighborhood thereof.

A FURTHER SUPPLEMENT to the act entitled "An Act to revise and amend the charter of the city of Newark," approved March eleventh, eighteen hundred and fifty-seven.

SECTION 1. *Be it enacted* by the Senate and General Assembly of the State of New Jersey, that there shall be in the city of Newark a board of excise commissioners, which shall consist of three resident

freeholders of said city, to be nominated by the mayor and confirmed by the common council of said city, whose term of office (except as to the persons first constituting said board) shall be three years, and who shall each receive for their services such annual salary, not to exceed the sum of five hundred dollars, as the said common council may fix or determine.

SEC. 2. *And be it enacted*, That all licenses for the sale of strong and spirituous liquors, wine, ale, and beer within the limits of said city of Newark shall be granted by said board of excise commissioners; and said board shall have the power to grant license to any person or persons of good moral character who shall be approved of by them, permitting him or them to sell and dispose of at any one named place within such city strong and spirituous liquors, wines, ale, and beer in quantities less than five gallons at a time, upon receiving a license fee to be fixed by said board; and there shall be hereafter a separate license granted for the sale of ale and beer, and another for the sale of spirituous liquors and wines; the license fee for selling ale and beer shall be thirty dollars, and the license fee for selling spirituous liquors and wines shall not be less than fifty dollars, or more than one hundred dollars for each license; such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the license shall be kept displayed by being hung up by the person or persons licensed in a conspicuous position in the room or place where his or their sales are made; any omission so to display and exhibit such certificate shall be presumptive evidence that any person or persons omitting to display and exhibit the same has and have no license; the said board of excise commissioners shall keep a complete record of the names of all persons licensed, as herein provided, with a statement of the place licensed, and license fee imposed and paid in each case; which record they shall at all times permit to be seen in a convenient place at their office in said city; persons not licensed may keep, and, in quantities not less than five gallons at a time, sell and dispose of, strong and spirituous liquors, wines, ale, and beer in said city. *Provided*, that no part thereof shall be used or drunk in the building, garden, or enclosure communicating with or in any public street or place contiguous to the building in which the same is kept, disposed of, or sold.

SEC. 3. *And be it enacted*, That the mayor of said city shall nominate to the common council of said city, at their first regular meeting held after the passage and approval of this act, three resident freeholders of said city as members of said board for the term to expire as hereinafter mentioned; all nominations made to the common

council by the mayor, under the provisions of this act, shall be confirmed or rejected by said common council at once, and in case of the rejection of such nominees, or any of them, the mayor shall continue so to nominate one, two, or three persons, as the case may be, until the nominations are confirmed and the board is complete.

SEC. 4. *And be it enacted*, That the term of office of the three persons first constituting said board shall be determined by lot, one to remain in office until the first Tuesday after the first day of January in the year eighteen hundred and seventy-six, another to remain in office until one year thereafter, and the third to remain in office until the first Tuesday after the first day of January, in the year one thousand eight hundred and seventy-eight; and that in the month of December, in the year eighteen hundred and seventy-five, and in the month of December in each and every year thereafter, the mayor of said city shall nominate to the said common council a resident freeholder of said city to be a member of said board for the term of three years from the first Tuesday after the first day of January of the following year; when, in case of the failure or refusal of the mayor to nominate, or of the common council to confirm, or for any other reason, the time for the commencement of any term of office of any member of said board, as aforesaid, shall pass by without a new appointment having been made and confirmed, then the members of said board for the preceding term shall hold over and perform all the duties of commissioners of excise until a new appointment shall be made and confirmed, and such new member shall qualify; in case of a vacancy in said board by reason of death, resignation, failure to qualify according to law, or otherwise, the said mayor shall nominate to the said common council some eligible person or persons to fill said vacancy or vacancies, and the person or persons nominated and confirmed to fill said vacancy or vacancies shall be members of the board for the remainder of the then unexpired term, and may hold over as above provided.

SEC. 5. *And be it enacted*, That the said board shall meet regularly each and every week, and more frequently if necessary, for the purpose of receiving and passing upon applications for license, and for transaction of such business as may properly come before them, and shall keep or cause to be kept full and complete records and minutes of the doings of the said board, at each meeting held by them, in a proper book or books, which said book or books shall, except when the said board are in session, be kept in the office of the city clerk of said city, and shall be open to the inspection of the mayor and common council of said city and the officers of any department of the city government when required, and subject to such other provision as the common council may ordain; said board may

appoint one of their own number to be president of the board, and may adopt such by-laws for the government of the board as they may deem proper; the said common council shall provide such room or rooms for the use of said board as to the said common council may seem best, and fit up the same and furnish all the books, blanks, and stationery, license certificates, and other things necessary for the transaction of the business of said board; said common council shall, from time to time, appoint some suitable person to be inspector of excise, whose duty it shall be to faithfully and thoroughly inspect all places where strong and spirituous liquors, wines, ale, or beer are sold within the said city of Newark, and promptly report to the said board the names and places of business of all persons who are selling without the license of the board, or who may violate any of the provisions of this act, and to perform such other duties as may be required of him by said board or by the said common council, who shall have power by ordinance or by resolution to more fully define or describe the duties of said inspector; the common council shall fix the compensation to be paid to said inspector, and he may be removed from office by them at any time; the city clerk of said city shall be the clerk of said board; each person confirmed as a member of said board shall qualify within ten days thereafter by (before he enters upon the duties of his office) taking and subscribing the oath provided for in section twenty-four of the city charter, and shall also enter into, and deliver to the city clerk, a bond to the mayor and common council of the city of Newark in the sum of five thousand dollars, with two sufficient sureties, to be approved by the committee on finance of the common council.

SEC. 6. *And be it enacted*, That said board shall cause to be printed in pamphlets or circulars this act, or a proper synopsis thereof, together with the rates of license fees adopted by them, which pamphlets or circulars shall be kept in their office for distribution to suitable persons, and for information and inspection, and a copy shall be given to each person to whom license shall be granted; each license shall be granted for one year only, and the full amount of the license fee shall be paid in when application is made for license in each case, and no license shall be granted by said board until the full amount of the license fee is paid to them by the person or persons applying for the same.

SEC. 7. *And be it enacted*, That said board shall each and every week pay over to the comptroller of the city of Newark the total amount received by them for license fees during said week, and at the same time present to the said comptroller a complete statement and account, in writing, of all the licenses granted by them during said week, the persons to whom granted and the residence of said

persons, and the amount of the license fee paid in each case, the time when it was paid and when the license was granted, and whether it was for the sale of strong and spirituous liquors, or wines, or ale, or beer, and the place where the same was licensed to be sold.

SEC. 8. *And be it enacted*, That whoever shall sell any strong or spirituous liquors, wines, ale, or beer, in quantities less than five gallons at a time, at any place within said city, without having a license therefor, granted as herein provided, shall forfeit and pay fifty dollars for each offence.

SEC. 9. *And be it enacted*, That no inn, tavern, hotel, victualling-house, or saloon-keeper, or any other person licensed to sell any strong or spirituous liquors or wines within the said city, shall sell or give away any such liquors or wines to any apprentice or to any minor under the age of eighteen years, knowing or having reason to believe him such, under a penalty of ten dollars for each offence.

SEC. 10. *And be it enacted*, That any special police justice of the city of Newark shall have jurisdiction in the matter of all complaints for the violation of any of the provisions of this act, and shall have full power to hear, adjudge, and determine said complaints, and issue warrants and other processes, and impose the fines and penalties provided for in this act; and every special police justice of said city shall make such return and payment of the fines and penalties and costs received by him in all matters coming before him under this act as he is now required to make respecting fines, penalties, and costs of suit paid to him under complaints for the violation of ordinances.

SEC. 11. *And be it enacted*, That all licenses heretofore granted by the board of excise of said city of Newark and now unexpired, on which the full fees required at the time of their granting have been paid, shall be valid until the time for which they were granted shall expire. *Provided*, the holders of said licenses shall keep the same displayed, and exhibit them as required in section two of this act, and provided they shall in other respects conform to the requirements of this act; and in case they shall violate any of the provisions of said section or any other provision of this act, they shall be subject to the penalties of said violations.

SEC. 12. *And be it enacted*, That all the provisions of the act entitled "An Act to revise and amend the charter of the city of Newark," approved March eleventh, eighteen hundred and fifty-seven, and any of the supplements thereto providing or in anywise relating to the election of members of the Board of Excise and their powers and duties, and all acts and parts of acts inconsistent with any of the provisions of this act, are hereby repealed; and this

act shall be deemed and taken to be a public act, and shall take effect immediately.

Approved March 31, 1875.

A SUPPLEMENT to an act entitled "An Act to revise and amend the charter of the city of Elizabeth," approved March fourth, A.D. one thousand eight hundred and sixty-three, and the several supplements thereto.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That it shall not be lawful for any person or persons in the city of Elizabeth to sell any malt, fermented, vinous, or spirituous liquors of any kind in said city, or to occupy or use any saloon, restaurant, or other building or place in said city for the sale of malt, fermented, vinous, or spirituous liquors of any kind, without first taking out a license therefor from the Board of Excise of said city; and any person or persons in said city who shall sell malt, fermented, or vinous liquors of any kind, or who shall occupy or use any saloon, restaurant, or other building or place in said city for the sale of malt, fermented, or vinous liquors of any kind, without first taking out such license, shall, upon conviction thereof before any police justice of said city, for every such offence, be liable to a fine of twenty dollars, besides costs of suit; and any person or persons in said city who shall sell spirituous liquors of any kind, or who shall occupy or use any saloon, restaurant, or other building or place in said city for the sale of spirituous liquors of any kind, without first taking out such license, shall upon conviction thereof, before any police justice of such city, for every such offence, be liable to a fine of forty dollars besides costs of suit; such suits shall be conducted in the same manner as suits for the violation of ordinances of said city are conducted, and all such fines when collected shall be paid to the treasurer of the city of Elizabeth, and by him placed to the credit of the poor and alms account of said city; and it shall be the special duty of the police department of said city to enforce the provisions of this act. *Provided*, that this act shall not apply to druggists or grocers who sell such liquors or any of them for medicinal purposes or in large measures.

SEC. 1. *And be it enacted*, That this act shall take effect immediately and be deemed and taken to be a public act, and that all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Approved April 9, 1875.

AN ACT to regulate the sale of malt, vinous, and spirituous liquors in the township of Haddon, in the county of Camden.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That it shall and may be lawful for the persons qualified to vote at town-meetings in the township of Haddon, in said county of Camden, and they are hereby required to hold an election in said township on the last Tuesday in April, one thousand eight hundred and seventy-three, at the place at which their last town-meeting was held, and determine by ballot whether any person or persons shall thereafter be licensed to utter or sell within the limits of said township any malt, vinous, spirituous, or intoxicating liquors.

SEC. 2. *And be it enacted*, That the officers who may be authorized by law to hold the next annual State election in said township shall conduct the election to be held in pursuance of the first section of this act; and said election shall be commenced and conducted in accordance with the provisions of, and under the penalties prescribed by, the act entitled "An Act to regulate elections," and the several supplements thereto, so far as said provisions are applicable, except that in place of the words "for members of," and so forth, in the heading of the poll-list, shall be inserted the words "to determine whether license shall be granted to sell malt, vinous, spirituous, or intoxicating liquors" in said township.

SEC. 3. *And be it enacted*, That each ballot to be used at said election shall have written or printed on it the word "License" or the words "No License"; and at the close of said election the votes shall be canvassed in the manner provided in sections fifty-four and fifty-five of the said act entitled "An Act to regulate elections," so far as the provisions thereof are applicable; and a certificate of the result showing the number of votes in favor of and against such license shall be signed by the board of election, and within five days thereafter be delivered to the clerk of said county of Camden, to be kept on file as a public record.

SEC. 4. *And be it enacted*, That the same notice shall be given of said election as is by law required to be given of the annual State election, and the officers conducting the same shall be entitled to receive the same fees as are allowed for like services in holding the annual State election, to be collected and paid in the same manner.

SEC. 5. *And be it enacted*, That at each second annual town-meeting or township election to be held in said township of Haddon, succeeding the election provided for in the first section of this act, the persons qualified to vote at such town-meeting or election are hereby authorized and required to vote upon the question of license or no license in the same manner in which other matters are voted on at such election, except that the ballots for this purpose shall be separate and like unto those prescribed in the third section of this

act, and when received shall be deposited in a separate box, similar in all respects to the ballot-box prescribed by law, and to be provided and paid for in the same way; and at the close of said election the officers shall immediately make out and sign a certificate of the result in the mode mentioned in said third section of this act, and within five days thereafter deliver the same to the officer therein mentioned.

SEC. 6. *And be it enacted*, That if it shall appear that at any election held in said township of Haddon, pursuant to the provisions of this act, a majority of all the votes cast were for "No License," it shall not thereafter be lawful to license any person or persons to sell malt, vinous, spirituous, or intoxicating liquors within said township, until it shall be so decided by a majority of legal votes cast at some subsequent election, held as hereinbefore provided.

SEC. 7. *And be it enacted*, That from and after the passage of this act it shall not be lawful for any person or persons within said township of Haddon, without a license for that purpose first had and obtained, to sell, or cause or knowingly permit to be sold, directly or indirectly, any malt, vinous, spirituous, or intoxicating liquors, or any composition of which such liquors, or any of them, shall form the chief ingredient, except such as shall be sold to be used as a medicine, and not drunk on the premises where sold; and that no such liquors shall be sold at any tavern, hotel, or public-house of entertainment; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than fifty nor more than one hundred dollars for the first offence, and not less than one hundred dollars for each and every subsequent offence, together with the costs of prosecution. *Provided*, that the prosecution shall be commenced within six months after the offence or offences shall have been committed.

SEC. 8. *And be it enacted*, That so much and such parts of all acts and parts of acts as are inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Approved April 3, 1873.

A FURTHER SUPPLEMENT to the act entitled "An Act to revise and amend the charter of the town of Orange," approved March third, one thousand eight hundred and sixty-nine.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That the words "be deemed and taken to be the true and actual value thereof, and shall be added to" and contained in the fourth section of a certain supplement to said act,

which supplement was approved March seventeenth, one thousand eight hundred and seventy, be and the same are hereby repealed.

SEC. 2. *And be it enacted*, That the seventh section of a certain other supplement to said act, which supplement was approved March twenty-eighth, one thousand eight hundred and seventy-three, be and is hereby amended by repealing the words "" twenty-five" and by inserting in lieu thereof the words "one hundred," and also by repealing the word "six" and inserting in the place thereof the word "twelve."

SEC. 3. *And be it enacted*, that hereafter every letter of recommendation to the collector of taxes for a license to sell ale, beer, porter, cider, or wine shall, before such license shall be granted, be published, together with the names of the signers, for at least two weeks in one of the newspapers of said city, and at the expense of such applicant.

SEC. 4. *And be it enacted*, That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act is hereby declared to be a public act, and shall take effect immediately.

Approved March 26, 1874.

AN ACT to prevent the sale of intoxicating liquors within one mile of Ocean Grove and Asbury Park, in Monmouth County, New Jersey.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That it shall not be lawful to sell, vend, or barter spirituous liquors, wine, ale, beer, or any intoxicating liquors of any kind whatsoever, within a distance of one mile from Wesley Lake Bridge, at Ocean Grove and Asbury Park, in Monmouth County, State of New Jersey, except for medicinal purposes, at regular drug-stores, and under the prescriptions of regularly practising physicians; any person or persons offending against the provisions of this act shall be deemed guilty of a misdemeanor, and fined fifty dollars and costs for each offence, said fine to be paid to the overseers of the poor for the support of the poor of the county.

SEC. 2. *And be it enacted*, That this act shall take effect immediately.

Approved February 26, 1874.

AN ACT making it a criminal offence to manufacture or sell, or import already manufactured for sale, any adulterated or spurious liquors in the State of New Jersey.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That if any person or persons shall manufacture,

or import already manufactured, or barter or sell, or keep in his possession for barter or sale, any rum, brandy, wine, or spirits of any kind, or any other liquid of which distilled spirits shall form a component part, to be used as a beverage, that shall be adulterated or manufactured with spurious or poisonous ingredients of any description, the person or persons so offending shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding two years, or both, at the discretion of the court.

SEC. 2. *And be it enacted*, That if any person or persons shall adulterate, mix, compound, or poison any malt liquors, with intent to barter or sell the same, or to mix, compound, or poison any malt or vinous or spirituous liquors the one with the other, or in any way whatever, or give, barter, or sell the same, with intent to make greater profit, or with intent to produce intoxication or stupefaction, every person or persons so offending shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court.

SEC. 3. *And be it enacted*, That this act shall take effect immediately.

[Approved April 6, 1871.]

SECTIONS 60, 61, 62, AND 63 OF "AN ACT FOR THE PUNISHMENT OF CRIMES."—REVISION APPROVED MARCH 27, 1874.

SEC. 60. It shall not be lawful for any person or persons, without license for that purpose first had and obtained, to sell, or cause or knowingly permit to be sold, directly or indirectly, any wine, rum, gin, brandy, whiskey, cider-spirits, or other ardent spirits, or any composition of which any of the said liquors shall form the chief ingredient, except such as shall be compounded and intended to be used as medicine, by less measure than one quart, or any mixed liquors by less measure than five gallons; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding twenty dollars, together with the costs of the prosecution. *Provided*, That the prosecution shall be commenced within six months after the offence shall have been committed: and *provided* also, that nothing in this act shall be construed or taken to prohibit any person or persons from selling metheglin, currant-wine, or other wine or cider made by him, her, or them.

SEC. 61. The licenses granted under the authority of this State to keep inns and taverns shall not be construed to authorize the sale of any vinous, spirituous, fermented, or other intoxicating liquors upon the Sabbath, commonly called Sunday; and all persons offending herein shall be subject to all the penalties and liabilities of the persons selling liquor without license, as specified in the statute of this State entitled "An Act concerning inns and taverns," and shall likewise be subject to the forfeiture of the license, at the discretion of the court before whom conviction is had; and, further, if any person shall offer or expose for sale on the said day any spirituous, vinous, fermented, or other intoxicating liquors, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding twenty dollars, together with the costs of prosecution.

SEC. 62. It shall not be lawful for any sheriff, under-sheriff, jailer, or other person whatever, to sell, or knowingly permit to be sold, in any of the court-houses or jails of this State, any wine, gin, whiskey, cider-spirits, brandy, or ardent spirits, or any composition of which any of said liquors shall form the chief ingredient; and in case any sheriff shall so offend, he shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be fined in the sum of one hundred dollars, together with costs of prosecution; and if any under-sheriff, jailer, or other person shall so offend, he shall be deemed guilty of a misdemeanor, and on conviction thereof be fined in the sum of one hundred dollars, together with costs of prosecution.

SEC. 63. If any person shall sell, or offer to sell, or expose for sale, within the limits of any city, precinct, town, township, or other municipality within this State, any spirituous, vinous, or malt liquors, ale, beer, or cider, on any day upon which any election, either general, special, or municipal, shall be held in said city, precinct, town, township, or other municipality, between sunrise in the morning and sunset in the evening, he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days, or both.

SECTION 133 OF "AN ACT TO REGULATE ELECTIONS."

SECTION 133. *And be it enacted*, That it shall be the duty of all sheriffs, under-sheriffs, police officers, and constables, on any such election day, between sunrise in the morning and sunset in the evening, to arrest, without warrant, all persons who shall be found by them in the actual violation of any of the provisions of section sixty-

three of "An Act Concerning Crimes," and take such persons, when arrested, before some justice of the peace of the county in which such arrest shall be made, to be dealt with by said justice according to law; and it shall be the further duty of such sheriffs, under-sheriffs, police officers, and constables to effectually close up all places where they shall have good reason to believe any spirituous, vinous, malt liquors, ale, beer, or cider are being sold, or offered or exposed for sale or given away, and keep the same effectually closed up till after sunset on such election day.

[Approved April 18, 1876.]

CHAPTER CXLIX.

AN ACT concerning the granting of licenses to sell strong and spirituous liquors, wine, ale, and beer within limits of incorporated cities.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That in each and every city in this State, whose charter or its supplements provide that all licenses for the sale of strong and spirituous liquors, wine, ale, and beer, within the limits of such city, shall be granted by a board of excise commissioners, consisting of resident freeholders of such city, nominated by the mayor and confirmed by the common council of such city, all licenses hereafter granted by such board of excise commissioners for the sale of ale, beer, and light wines, as hereinafter provided, shall expire on the first day of July next succeeding the granting of any such license.

SEC. 2. *And be it enacted*, That the license fee to be hereafter charged by such board of excise commissioners for selling strong and spirituous liquors, wines, ale, and beer, shall be not exceeding seventy-five nor less than fifty dollars, and that the license fee for the sale of ale, beer, and light wines shall not exceed twenty-five nor be less than fifteen dollars, for the term of one year from the date of any such license; that such board of excise commissioners shall grant licenses for the sale of strong and spirituous liquors, wine, ale, and beer, or for the sale of ale, beer, and light wines for any part of a year, not less than one month next preceding the first day of July, every such license so granted to expire as provided in the first section of this act; that the license fee to be charged and assessed by such board of excise commissioners for the sale of strong and spirituous liquors, wine, ale, and beer, for a less time than one year, shall be at the rate of not more than seven nor less than four dollars a month for each month of the unexpired year; that the license fee for the sale of ale, beer, and light wines for a less time than one year

shall be at the rate of not more than three nor less than one and a half dollars a month for each month of the unexpired year; and that all fees for license shall hereafter accompany any and all applications for license, such fee to be returned to the person or persons applying for license in all cases where applications for license are refused by such board of excise commissioners.

SEC. 3. *And be it enacted*, That any such board of excise commissioners may at their option transfer any license by them granted to any person or persons, or any other person or persons who shall apply to them for such transfer. *Provided*, that such board of excise commissioners shall be satisfied that any such person or persons are of good moral character, and upon the payment of a transfer fee of three dollars; that any transfer of license shall be written or printed upon the face of any such license, and any such transfer shall entitle and authorize any person or persons to continue at the same place of business the sale of strong and spirituous liquors, wine, ale, and beer, or ale, beer, and light wines, as provided and mentioned in any and every of licenses respectively.

SEC. 4. *And be it enacted*, That whoever shall sell any strong or spirituous liquors, wines, ale, or beer, in quantities less than five gallons at a time, at any place within such incorporated city, without having a license therefor granted by such board of excise commissioners, shall on conviction thereof, according to the form of the statute in that behalf made and provided, forfeit and pay such sums as may be fixed by the special police justice before whom such conviction shall be had. *Provided*, the amount of such forfeiture or fine for any one violation of the provisions of this act shall not exceed the sum of fifty dollars.

SEC. 5. *And be it enacted*, That all acts or parts of acts inconsistent with any of the provisions of this act, concerning all incorporated cities mentioned in the first section of this act, be and the same are hereby repealed, and this act shall take effect immediately. *Provided*, that the provisions of this act shall not apply to any city having by the last census less than one hundred thousand inhabitants.

[Approved March 9, 1877.]

ASSEMBLY, No. 331.

AN ACT to regulate the sale of malt, vinous, and spirituous liquors in the township of Chatham in the county of Morris.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That it shall and may be lawful for the persons qualified to vote at town meetings in the township of Chatham in said

county of Morris, and they are hereby required, to hold an election in said township on the second Tuesday in June next, at the place at which their last town meeting was held, and determine, by ballot, whether any person or persons shall thereafter be licensed to offer or sell, within the limits of said township, any malt, vinous, spirituous, or intoxicating liquors.

SEC. 2. *And be it enacted*, That the officers who may be authorized by law to hold the next annual State election in said township shall conduct the election to be held in pursuance of the first section of this act; and said election shall be commenced and conducted in accordance with the provisions of, and under the penalties prescribed by, the act entitled "An Act to regulate elections," and the several supplements thereto, so far as said provisions are applicable, except that in place of the words "for members of," etc., in the heading of the poll-list, shall be inserted the words "to determine whether license shall be granted to sell malt, vinous, spirituous, or intoxicating liquors" in said township.

SEC. 3. *And be it enacted*, That each ballot to be used at said election shall have written, or printed, on it the word "License," or the words "No license"; and at the close of said election the votes shall be canvassed in the manner provided in sections fifty-four and fifty-five of the said act entitled "An Act to regulate elections," so far as the provisions thereof are applicable; and a certificate of the result, showing the number of votes in favor of and against such license, shall be signed by the board of election, and within five days thereafter be delivered to the clerk of the said county of Morris, to be kept on file as a public record.

SEC. 4. *And be it enacted*, That the same notice shall be given of said election as is by law required to be given of the annual State election, and the officers conducting the same shall be entitled to receive the same fees as are allowed for like services in holding the annual State election, to be collected and paid in the same manner.

SEC. 5. *And be it enacted*, That at each second annual town meeting or township election to be held in said township of Chatham, succeeding the election provided for in the first section of this act, the persons qualified to vote at such town meeting or election are hereby authorized and required to vote upon the question of license or no license, in the same manner in which other matters are voted on at such election, except that the ballots for this purpose shall be separate and like unto those prescribed in the third section of this act, and when received shall be deposited in a separate box similar in all respects to the ballot-box prescribed by law, and to be provided and paid for in the same way; and at the close of said election the officers shall immediately make out and sign a certificate of the result in the mode mentioned in said third

section of this act, and within five days thereafter deliver the same to the officer therein mentioned.

SEC. 6. *And be it enacted*, That if it shall appear that at any election held in said township of Chatham, pursuant to the provisions of this act, a majority of all the votes cast were for "no license," it shall not thereafter be lawful to license any person or persons to sell malt, vinous, spirituous, or intoxicating liquors within said township, until it shall be so decided by a majority of legal votes cast at some subsequent election held as hereinbefore provided.

SEC. 7. *And be it enacted*, That from and after the passage of this act it shall not be lawful for any person or persons within said township of Chatham, without a license for that purpose first had and obtained, to sell or cause or knowingly permit to be sold, directly or indirectly, any malt, vinous, spirituous, or intoxicating liquors, or any composition of which such liquors, or any of them, shall form the chief ingredient, except such as shall be compounded to be used as a medicine, by less measure than one gallon, or any of any such liquors in any quantity to be drunk on the premises where sold; and any person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than fifty nor more than one hundred dollars for the first offence, and not less than one hundred dollars for each and every subsequent offence, together with costs of prosecution *Provided*, that the prosecution shall be commenced within six months after the offence or offences shall have been committed.

SEC. 8. *And be it enacted*, That so much and such parts of all acts and parts of acts as are inconsistent with the provisions of this act be and the same are hereby repealed; and that this act shall take effect immediately.

Approved April 6, 1871.

LOCAL OPTION—SUPREME COURT DECISION.

A "local-option" law was passed for Chatham in Morris County, and a majority voted "No license." An appeal was taken to the Supreme Court, which rendered a decision deciding it constitutional. This decision is considered of great importance, inasmuch as Attorney-General Gilchrist had previously rendered an opinion that it was unconstitutional. The following extracts are from the opinion of the Supreme Court.

1. The Chatham local-option law declared the retail of ardent

spirits without license to be unlawful, and provides that no license shall be granted if a majority vote of the township is for no license. Held that the act is constitutional.

2. That the Legislature, under the power to make police regulations, may prohibit the retail of alcoholic stimulants.

3. That municipal corporations and townships may be invested with authority to regulate or prohibit the retail of intoxicating drinks.

This application is made to test the constitutionality of what is termed the Chatham Local-Option Law.

The provisions of the act (Laws, 1371, page 1470) are substantially that it should be lawful for the persons qualified to vote at the next annual town-meeting to determine by ballot whether, thereafter, licenses to sell spirituous liquors should be granted; that, if it should appear that a majority of votes were cast for "No license," it should not thereafter be lawful to grant any such license until otherwise decided by contrary vote at some subsequent town-meeting; that from and after the passage of the act it should not be lawful for any person within said township, without a license for that purpose first had, to sell by less measure than one gallon, and any person so selling without license should be adjudged guilty of a misdemeanor; and, lastly, that so much and such parts of all acts and parts of acts as are inconsistent with this act be and are repealed.

The local-option law is alleged to be in conflict with that article of our State constitution which provides that the legislative power shall be vested in the Senate and General Assembly.

The test will be whether this enactment, when it passed from the hands of the lawgiver, had taken the form of a complete law. It denounces as a misdemeanor the selling of liquor without a license; so far it is positive and free from any contingency.

It left to the popular vote to determine not whether it should be lawful to sell without license, but whether the contingency should arise under which license might be granted.

It was not submitted to the voters of Chatham to say whether there should be a majority vote in favor of the license before license could be granted; the law as framed declares there shall be such majority vote. The operations of the first and second sections of the act "concerning inns and taverns" are not suspended by the declaration of the popular will, but the act itself modifies those sections, and makes it a condition of granting license that there shall be a majority vote.

It is the law which makes the majority vote necessary and not the vote of the people.

The right of the Legislature to grant the power of local government to municipalities is conceded; and it is immaterial whether the enactment conferring it is regarded as a declaration of the supreme legislative will and strictly a law, or merely as a concession of a grant by the Legislature, as the representatives of the sovereignty of the people.

Such legislation has become so woven into our system of government, and its exercise as an appropriate function of the lawgiver has passed so long unchallenged, and has been so repeatedly recognized by the courts, that it cannot be permitted now to be called in question.

While alcoholic stimulants are recognized as property, and entitled to the protection of law, ownership in them is subject to such restraints as are demanded by the highest considerations of public expediency. Such enactments are regarded as police regulations, established for the prevention of pauperism and crime, for the abatement of nuisances, and the promotion of public health and safety. They are a just restraint of an injurious use of property which the Legislature has authority to impose, and the extent to which such interference may be carried must rest exclusively in legislative wisdom, where it is not controlled by fundamental law. It is a settled principle, essential to the rights of self-preservation in every organized community, that, however absolute may be the owner's title to his property, he holds it under the implied condition "that its use shall not work injury to the equal enjoyment and safety of others who have an equal right to the enjoyment of their property, nor be injurious to the community."

Rights of property are subject to such limitations as are demanded by the common welfare of society, and it is within the range and scope of legislative action to declare what general regulations shall be deemed expedient.

If, therefore, the Legislature shall consider the retail of ardent spirits injurious to citizens or productive of idleness and vice, it may provide for its total suppression. Such inhibition is justified only as a police regulation, and its legality has been recognized in well-considered cases.

It necessarily results that municipal corporations may derive the power to interdict the sale of intoxicating drinks from the same source to which they owe their authority to regulate it. The

grant of power to prohibit the sale is no more the delegation of a right to make law than the grant of authority to regulate it.

Assuming this proportion, how may such authority be exercised by the corporate body ?

Obviously, the only limitation must be contained in the terms of the grant itself, in the absence of any constitutional restraint. It is wholly immaterial how the power is exercised, so long as it is in the mode appointed by the superior. In establishing the local government, the power may, at the discretion of the Legislature, be lodged in the people to make rules for the regulation of their internal police by their direct vote in mass-meeting assembled, or through designated officials by themselves duly elected. It would, therefore, be within the province of the Legislature to confer upon a city the right, by a majority vote of its inhabitants, to pass ordinances for the regulation or suppression of the retail trade in ardent spirits.

PENNSYLVANIA.

PENNSYLVANIA has a license law of twelve sections, approved April 12, 1875.

The first section repeals the local-option law, which allowed the voters of the commonwealth to vote every three years on the question of granting licenses. The County Court of Quarter Sessions is empowered to grant licenses, hear objections, etc. The license fee is graduated according to the quantity of liquors sold yearly. Penalties are provided for violations of the law. Injured parties may collect damages of liquor-sellers. The sale of liquors is prohibited on Sundays, to minors, and to "a person visibly affected by intoxicating drinks."

PROHIBITION ON ELECTION-DAY.

THE following was enacted in 1872:

Be it enacted, etc., That, from and after the passage of this act, it shall not be lawful for any person or persons keeping a public-house or drinking-place, either licensed or unlicensed, to sell spirituous or malt liquors, wine, or any other intoxicating beverages, on any part of any day set apart, or to be set apart, for any general or special election, by the citizens in any election district or division within this commonwealth, where an election is in progress, during the hours when by law in said district the election polls are required to be kept open

KENTUCKY.

THE following is the bill to "regulate the sale of spirituous or vinous liquors" in the State:

"SECTION 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be the duty of the judge of the county court in each county of this commonwealth, upon a written petition signed by at least twenty of the legal voters in any civil district, town, or city in his county, to make an order on his order-book, at the next regular term of his court after he receives said petition, directing the sheriff, or other officer whose duty it may be to hold the election, to open a poll in said district, town, or city at the next regular State, town, city, or county election held therein, for the purpose of taking the sense of the legal voters in the said district, town, or city upon the proposition whether or not spirituous, vinous, or malt liquors shall be sold therein.

"SEC. 2. It shall be the duty of the county court clerk to give to the sheriff, or other officer whose duty it shall be to hold the election mentioned in Section 1 of this act, a certified copy of the order of the judge of the county court, as it appears on his order-book, within ten days after said order is made.

"SEC. 3. It shall be the duty of the sheriff, or other officer whose duty it may be to hold the election mentioned in Section 1 of this act, to have the order of the judge of the county court published in some weekly or daily paper published in the county, for at least two weeks before the election; and also to advertise the same by printed or written handbills posted at five conspicuous places in said district, town, or city for the same length of time; and if there is no daily or weekly newspaper published in the county, the printed or written handbills posted as before provided for shall be sufficient notice. The sheriff, or other officer whose duty it shall be to hold the election mentioned in Section 1, shall have the advertisement and notices herein provided for posted, as above provided for, within ten days after he receives the order of the county judge, and twenty days before the election.

"SEC. 4. It shall be the duty of the sheriff, or other officer whose duty it may be to hold the election mentioned in Section 1 of this act, to open a poll, and the election officers shall propound to each voter who may vote the question: 'Are you in favor of the sale of spirituous, vinous, or malt liquors in this district, town, or city?' and his vote shall be entered for or against it, as he directs. The poll shall be returned as the other polls in said election, shall be examined and compared by the same officers.

"SEC. 5. If it shall be found that a majority of the legal votes cast at the election before provided for were given against the sale of spirituous, vinous, or malt liquors in the district, town, or city, it shall be the duty of the Examining Board to certify that fact, which certificate shall be delivered to the clerk of the county court, and by him safely kept until the next regular term of the county court, at which term the judge thereof shall have the same spread on the order-book of his court, and said entry of the certificate in the order-book, or a certified copy thereof, shall be *prima facie* evidence in all proceedings under this act.

"SEC. 6. After the entry of the certificate of the Examining Board, as above provided, in the order-book of the county court, it shall be unlawful for any person to sell any spirituous, vinous, or malt liquors in the said district, town, or city to any person; and any person who sells any such liquors in said district, town, or city shall, upon conviction, be fined the sum of not less than twenty-five dollars nor more than one hundred dollars for each offence.

"SEC. 7. The provisions of this act shall not apply to any manufacturer or wholesale dealer who, in good faith and in the usual course of trade, sells by the wholesale, nor to druggists who sell for medical purposes on a prescription made and signed by a regular practising physician; but no physician shall make or sign any such prescription, except the person for whom it is made is actually sick, and such liquor is absolutely required as a medicine; and any physician who makes or signs any prescription for such liquors, except as provided for in this act, shall be guilty of a violation of this act, and, on conviction, fined twenty-five dollars for each offence.

"SEC. 8. The county judge shall not make the order for the election until the persons signing the petition have deposited with him, in money, an amount sufficient to pay for printing or posting advertisements as provided for, and the fees of the clerk for making entries on the order-book, and other legal fees.

"SEC. 9. The election herein provided for shall not be held oftener than every two years; and in towns, cities, and districts where an election for the purpose and intention of this bill has already been held, no other election shall be ordered until two years from said election.

"SEC. 10. This act shall take effect from its passage."

TENNESSEE.

FOUR-MILE LAW.

AN ACT to prohibit the sale of intoxicating liquors near institutions of learning.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That it shall not hereafter be lawful for any person to sell or tipple any intoxicating beverage within four miles of an incorporated institution of learning in this State, and that any one violating the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars, nor more than two hundred and fifty dollars, and imprisonment for a period not less than one nor more than six months.

SEC. 2. *Be it further enacted*, That this act shall not apply to the sale of such liquors within the limits of any incorporated town, nor to sales made by persons having licenses to make the same at the date of the passage of this act, during the time for which such licenses were granted, nor to sales by manufactories of such liquors in wholesale packages or quantities.

SEC. 3. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

OHIO.

THIS State has a prohibitory clause in its Constitution. Section 18 of Article 16 of the Constitution reads as follows:

"No license to traffic in intoxicating liquors shall hereafter be granted in the State, but the General Assembly may by law provide against evils resulting therefrom."

CIVIL DAMAGE LAW.

AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE STATE OF OHIO PASSED MAY 1, 1854.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or persons, by agent or otherwise, to sell in any quantity intoxicating liquors to be drunk in, upon, or about the building or premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building, or premises, or other place of public resort connected with said building.

SEC. 2. That it shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors to minors, unless upon the written order of their parents, guardians, or family physician.

SEC. 3. That it shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors to persons intoxicated, or who are in the habit of getting intoxicated.

SEC. 4. That all places where intoxicating liquors are sold in violation of this act shall be taken, held, and declared to be common nuisances, and all rooms, taverns, eating-houses, restaurants, groceries, coffee-houses, cellars, or other places of public resort, where intoxicating liquors are sold in violation of this act, shall be shut up and abated as public nuisances, upon the conviction of the keepers thereof, who shall be punished as hereinafter provided.

SEC. 5. (*As amended and took effect April* 5, 1859.) That it shall be unlawful for any person to get intoxicated, and every person found in a state of intoxication shall, upon conviction thereof, be fined in the sum of five dollars, and pay the costs of the prosecution.

SEC. 6. That every person who shall, by the sale of intoxicating liquors contrary to this act, cause the intoxication of any other person, such person or persons shall be liable for, and compelled to pay a reasonable compensation to, any person who may take charge of and provide for such intoxicated person, and one dollar per day in addition thereto for every day such intoxicated person shall be kept, in consequence of such intoxication, which sums may be recovered in a civil action before any court having jurisdiction thereof.

SEC. 7. (*As amended and took effect July* 4, 1870.) That every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person or property or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, such wife, child, parent, guardian, employer, or other person shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and the owner of, lessee, or person or persons renting or leasing any building or premises, having knowledge that intoxicating liquors are to be sold therein in violation of law, or having leased the same for other purposes, shall knowingly permit intoxicating liquors to be so sold in such building or premises that have caused the intoxication, in whole or in part, of such person or persons, shall be liable, severally or jointly, with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained, as well as exemplary damages; and a married woman shall have the same right to bring suits, and control the same, and the amount recovered, the same as if a *femme sole;* and all damages recovered by a minor under this act shall be paid either to such minor, or to his or her parent, guardian, or next friend, as the court shall direct; and the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon premises where such unlawful sale or giving away shall take place; and all suits for damages under this act shall be by a civil action in any of the courts of this State having jurisdiction thereof.

SEC. 8. (*As amended and took effect April* 5, 1859.) That for every violation of the provisions of the first, second, and third sections of this act every person so offending shall forfeit and pay a fine of not less than five nor more than fifty dollars, or be imprisoned in the jail of the county for not less than ten nor more

than thirty days, or both of them, at the discretion of the court, and shall pay the costs of prosecution; and, for every violation of the provisions of the fourth section of this act, every person convicted as the keeper of any places therein declared to be nuisances shall forfeit and pay a fine of not less than fifty nor more than one hundred dollars, or be imprisoned in the jail of the county for not less than twenty nor more than fifty days, or both, at the discretion of the court, and pay the costs of prosecution, and such place or places so kept by such person or persons so convicted shall be shut up and abated upon the order of the court before whom such conviction may be had, until such time as such person or persons keeping such place or places shall give bond and security to the acceptance of said court, in the penal sum of one thousand dollars, payable to the State of Ohio, conditioned that he or they will not sell intoxicating liquors contrary to the laws of the State, and will pay all fines, costs, and damages assessed against such keeper or keepers for every violation thereof, and, in case of forfeiture of such bond, suits may be brought thereon for the use of any person interested, or for the use of the county, in case of a fine or costs due such county. *Provided*, That the provisions of the first and fourth sections of this act shall not extend to the sale of the wine manufactured of the pure juice of the grape cultivated in this State, or beer, ale, or cider.

SEC. 9. That the giving away of intoxicating liquors, or other shift or device to evade the provisions of this act, shall be deemed and held to be unlawful selling within the provisions of this act.

SEC. 10. (*As amended and took effect July* 4, 1870.) For all fines, costs, and damages assessed against any person or persons in consequence of the sale of intoxicating liquors, as provided in section seven of this act, and the act to which this is amendatory, the real estate and personal property of such person or persons, of every kind, without exception or exemption, except under the act to amend an act entitled "An Act to regulate judgment and executions at law," passed March 1, 1831, passed March 9, 1840, took effect March 15, 1840 (S. & C. 1143), shall be liable for the payment thereof; and such fines, costs, and damages shall be a lien upon such real estate until paid; and, in case any person or persons shall rent or lease to another or others any building or premises to be occupied, in whole or in part, for the sale of intoxicating liquors, or shall permit the same to be so used and occupied, in whole or in part, such building or premises so leased, used, or occupied shall be held liable for and may be sold to pay all fines, costs, and damages as-

sessed against any person or persons occupying such building or premises; and proceedings may be had to subject the same to the payment of any such fine and costs assessed or judgment recovered which remained unpaid, or any part thereof, either before or after execution shall issue against the property of the person or persons against whom such fine and costs or judgment shall have been adjudged or assessed; and, when execution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid; and, in case such building or premises belong to a minor, insane person, or idiot, the guardian of such minor, insane person, or idiot who has control of such building or premises shall be liable and account to his or her ward for all damages on account of such use and occupation of such building or premises, and the liabilities for the fines, costs, and damages aforesaid; and all contracts whereby any building or premises shall be rented or leased, and the same shall be used or occupied, in whole or in part, for the sale of intoxicating liquors, shall be void, and the [lessee] person or persons renting or leasing said building or premises shall, on and after the selling or giving intoxicating liquors as aforesaid, be considered and held to be in possession of said buildings or premises.

SEC. 11. That all prosecutions under this act shall be in the name of the State of Ohio, and shall be commenced upon a written complaint, under oath or affirmation, before any justice of the peace of the county in which said offence was committed, or mayor of any incorporated town, village, or city, or by information or indictment, as may be provided by law, for the prosecution of offences, the punishment of which is not capital or imprisonment in the penitentiary; and, upon the filing of such complaint with such justice of the peace or mayor, as aforesaid, such justice of the peace or mayor shall forthwith issue a warrant directed to the proper officer, for the arrest of the person or persons charged with a violation of the provisions of this act, and such officer shall forthwith arrest the person or persons named in said warrant, and bring him or them before the justice of the peace or mayor issuing said warrant; and, upon the return of said warrant served, such justice of the peace or mayor shall proceed to enquire into the truth of such complaint, unless, for good causes shown, a continuance is granted at the instance of either party; and, in case of the continuance of said action as aforesaid, the defendant or defend-

ants shall enter into a recognizance to the State of Ohio, in such sum as the justice of the peace or mayor may deem reasonable, with security to the acceptance of such justice or mayor, conditioned for the appearance of said defendant or defendants at the time fixed for the hearing of said complaint; and, in default of such defendant or defendants giving such recognizance as aforesaid, the defendant or defendants shall be committed to the jail of the county, to be safely kept until the time fixed for the hearing of said complaint; and, if the parties so recognized shall not appear at the time set for said trial, the recognizance so given by him or them shall be forfeited by such justice of the peace or mayor, and such officer shall enter such forfeiture upon said recognizance, and also upon his docket, and thereupon such justice or mayor shall forthwith proceed to collect the penalty of said recognizance, by instituting an action thereon, and proceeding with the same to final judgment, and, when the same is collected, after paying the costs of such collection, such justice or mayor shall pay over the balance to the township, city, or incorporated village treasury, for the support of common schools; and, in all cases of prosecution before justices of the peace or mayors, if such officer finds the complaint to be true, he shall recognize such defendant or defendants to answer said charge, as in other criminal prosecutions of like grades, provided that, if such defendant or defendants shall plead guilty, such officer may affix the penalty, and proceed to judgment; and, in such case, said officer shall immediately issue an execution against the property and body of the defendant for the fine and costs, unless paid or secured, and said defendant shall not be discharged until said judgment and costs shall be fully paid or secured to be paid.

SEC. 12. The following form of complaint shall be sufficient in criminal proceedings before justices of the peace or mayors, under this act, when applicable, but may be varied to suit the nature of the case, namely:

State of Ohio, County, ss. Before me, A. B. (a justice of the peace of said county, or mayor of, etc., as the case may be), personally came C. D., who, being duly sworn according to law, deposeth and saith that, on or about the day of in the year at the county of aforesaid, E. F. did sell intoxicating liquors to one G. H., to be drunk in the place where sold (or to G. H. a minor, etc.), or to a person intoxicated, or in the habit of getting intoxicated, as the case may be, where

intoxicating liquors are sold in violation of law, and further saith not.

(Signed) C. D.

Sworn to and subscribed before me, this day of A. D.
A. B., Justice, or Mayor, etc.

SEC. 13. In all prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind of liquors sold, or to describe the place where sold, and for any violation of the fourth section it shall not be necessary to state the name of any person to whom sold; and in all cases the person or persons to whom intoxicating liquors shall be sold in violation of this act, shall be competent as witnesses to prove such fact or any other tending thereto.

AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE STATE OF OHIO," PASSED MAY 1, 1854. (PASSED AND TOOK EFFECT APRIL 5, 1866.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or persons to buy for or furnish to any person who is at the time intoxicated, or in the habit of getting intoxicated, or to buy for or furnish to any minor, to be drunk by such minor, any intoxicating liquors whatsoever, unless given by a physician in the regular line of his practice.

SEC. 2. That for every violation of the provisions of the first section of this act, every person so offending shall, upon conviction thereof, forfeit and pay a fine of not less than ten nor more than one hundred dollars, or be imprisoned in the jail of the county for not less than ten nor more than thirty days, or both of them, at the discretion of the court, and shall pay the costs of the prosecution.

AN ACT REGULATING TAVERNS, AND REPEALING CERTAIN ACTS THEREIN NAMED. (PASSED AND TOOK EFFECT FEB. 27, 1867.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any tavern keeper shall permit or allow any kind of rioting or revelling, intoxication, or drunkenness in his house or on his premises, every such tavern keeper shall, for every such offence, on conviction, be fined not less than five nor more than one hundred dollars.

THE NEW SABBATH LAW.

The Stubbs Bill, as finally passed, is as follows:

Be it enacted by the General Assembly of the State of Ohio, That section 6,944 of the revised statutes be amended and section 7,032 be supplemented as follows:

SEC. 6,944. Whoever sells or barters any spirituous liquors on the first day of the week, commonly called Sunday, except upon the written prescription of a practising physician, shall be fined not more than $50.

SEC. 7,032. Whoever on the first day of the week, commonly called Sunday, participates in or exhibits to the public, with or without charge for admittance, in any building, room, ground, garden, or other place in this State, any theatrical or dramatic performance of any kind or description, or equestrian or circus performance of jugglers, acrobats, rope-dancing, sparring exhibitions, variety shows, negro minstrelsy, living statuary, ballooning, or any base-ball playing, or any ten pins or other games of a similar kind or kinds, or participates in keeping any low or disorderly house of resort, or shall sell, dispose of, or give away spirituous liquors when any such show, performance, or exhibition is given, or house in the place is kept, he or she shall, on complaint made within twenty days thereafter, be fined in any sum not exceeding one hundred dollars, or be confined in the county jail not exceeding six months, or both, at the discretion of the court.

SEC. 2. This act shall take effect and be in force from and after its passage.

Adopted April, 1881.

LIQUOR-TAX LAW.

The following is the tax law passed by the Legislature of Ohio in the session of 1883 :

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That upon the business of trafficking in intoxicating liquors there shall be assessed yearly, and shall be paid into the county treasury by every person engaged therein, as hereinafter provided, and for each place where such business is carried on by or for such persons, the sum of two hundred dollars : *Provided*, If such business continue through the year, to wit, from the second Monday of April, exclusively in the trafficking in malt or vinous liquors, or both, such assessment shall be but half of the foregoing sum.

SEC. 2. That said assessments, together with any increase thereof as penalty thereon, shall attach and operate as a lien upon the real property on and in which said business is conducted, as of the fourth Monday of April, each year, and shall be paid on or before June 20th following : *Provided*, Where any such business shall be commenced in any year after said Monday, said assessment shall be proportionate in amount to the remainder of the assessment year, except that it shall in no case be less than twenty-five dollars, and the same shall attach and operate as a lien as aforesaid, at the date of, and be paid within ten days after, such commencement, and that whoever shall engage or continue in the business aforesaid of selling intoxicating liquors in or on land or premises not owned by him, and without the written consent of the owner thereof, shall be held guilty of misdemeanor and liable to be indicted and punished by a fine not exceeding one hundred dollars nor less than twenty-five dollars, or by imprisonment in the county jail not exceeding ten days, or both, at the discretion of the court, and each day's continuance upon such premises shall be an additional offence.

SEC. 3. That every assessor shall return to the county auditor, with his other returns, a statement, upon a blank to be furnished by such auditor for that purpose, as to every place within his jurisdiction where such business is conducted, showing the name of the person engaged therein, a brief and accurate description of the premises where the same is conducted, and by whom owned, and whether such business is confined exclusively to traffic in malt or vinous liquors, or both ; said statement shall be signed and verified before such assessor by such person. And if such person shall, on demand, refuse

or fail to furnish the requisite information for such statement, or to sign or verify the same, such fact shall be returned by the assessor, and thereupon such assessment upon his said business shall be three hundred and seventy-five dollars. And if any person having made return that his business is confined exclusively to malt or vinous liquors, or both, shall thereafter, during the assessment year, sell any other intoxicating liquors, the assessment upon his business shall thereby be increased by the sum of two hundred and fifty dollars. And if any assessment aforesaid shall not be paid when due, there shall be added a penalty thereto of twenty per centum, which shall be collected therewith.

SEC. 4. That the county auditor shall make and preserve duplicates of such assessments, alphabetically arranged, which shall show the amount and time of each assessment, by whom to be paid, and the premises whereon the same is to be a lien. And upon receiving satisfactory information of any such business liable to assessment, or increased assessment, as aforesaid, not returned by the assessor, he shall forthwith enter the same upon such duplicate, and upon the county treasurer's copy thereof. By the first Monday of June of each year he shall make and deliver to the county treasurer a copy of such duplicate, charging him with the full amount of such assessment to be collected, and also with any additional assessments, or increased assessments and penalties.

SEC. 5. That the county treasurer shall collect and receipt for all assessments so returned to him. And if any assessments shall not be paid when due, he shall forthwith proceed, as provided by section one thousand one hundred and four (1104) of the Revised Statutes, to enforce the lien for the same and penalty; and the provisions of said section, and any other provisions of the law of this State relative to the collection of taxes or assessments, are hereby made applicable to the enforcement of such liens and the collection of such assessments and penalties. Said treasurer shall charge himself with all such assessments placed in his hands for collection, and shall account to said auditor for all penalties collected thereunder.

SEC. 6. The phrase "trafficking in intoxicating liquors," as used in this act, means the buying or procuring and selling of intoxicating liquors otherwise than upon prescriptions issued in good faith by reputable physicians in active practice, or for exclusively known mechanical, pharmaceutical, or sacramental purposes; but such phrase does not include the manufacturing of intoxicating liquors from the raw material, and the sale thereof by the manufacturer of the same in quantities of one gallon or more at any one time.

SEC. 7. That the revenues *and fines* resulting under the provisions of this act shall be distributed as follows, to wit: In every county

three-fourths of the money paid, as herein provided, into the county treasury on account of any business aforesaid carried on in any city or village therein shall, upon the warrant of the county auditor, be paid into the treasury of such corporation—one-half to the credit of the police fund, and one-half to the credit of the general revenue fund thereof: *Provided*, In corporations having no police fund the entire three-fourths shall be passed to the credit of the general revenue fund thereof. The other fourth, together with all other revenues resulting hereunder in said county, shall be passed to the credit of the poor fund of such county.

SEC. 8. Within ten days after the passage of this act each county auditor in this State is hereby directed to publish, by one insertion in some newspaper of general circulation in his county, a notice informing all persons engaged in the traffic in intoxicating liquors that the first assessment imposed by this act will be due and payable on or before the 20th day of June, A.D. 1883. The attorney-general is charged with the duty of seeing that the requirements of this section are observed, and may enforce the same, if necessary, by proceedings in mandamus. The county commissioners of the respective counties may allow their county auditor a reasonable compensation for the discharge of the duties imposed upon him by this act.

SEC. 9. That the sale of intoxicating liquors, whether distilled, malt, or vinous, on the first day of the week, commonly called Sunday, except by a regular druggist, on the written prescription of a regular physician, for medical purposes only, is hereby declared to be unlawful, and all places where such intoxicating liquors are on other days sold or exposed for sale, except regular drug-stores, shall on that day be closed, and whoever makes any such sale, or allows any such place to be open or remain open, on that day, shall be fined in any sum not exceeding one hundred dollars, and be imprisoned in the county jail or city prison not exceeding thirty days. In regular hotels and eating-houses the word "place," herein used, shall be held to mean the room or part of room where such liquors are usually sold, or exposed for sale, and the keeping of such room or part of room securely closed shall be held, as to such hotels and eating-houses, as a closing of the place within the meaning of this act: *Provided*, That nothing in this section shall prevent the council of any municipal corporation in the State from regulating and controlling on such first day of the week the sale of beer and native wine in such manner as may by ordinance be provided. That the "act to amend Section 6944 of the Revised Statutes of Ohio, as amended April 3, 1881," passed April 15, 1882, be and the same is hereby repealed. And any municipal corporation shall have full power to regulate, restrain, and prohibit ale, beer, and porter houses, and places of habi-

tual resort for tippling and intemperance. But if any municipal corporation shall prohibit ale, beer, and porter houses within the limit of such corporation, a ratable portion of the tax paid by the proprietors thereof for unexpired portions of the time shall be returned to such proprietors.

SEC. 10. Whoever sells intoxicating liquors to minors, except on the written order of his parent, guardian, or family physician, or to a person intoxicated or in the habit of getting intoxicated, shall be fined not more than one hundred dollars nor less than twenty-five dollars, and imprisoned not more than thirty nor less than five days.

SEC. 11. Section 6941 of the Revised Statutes of Ohio is hereby repealed.

SEC. 12. This act shall take effect on its passage, but no assessment shall occur previous to the fourth Monday of April, 1883.

MICHIGAN.

THE LIQUOR-TAX LAW.

[Act No. 268, Laws of 1879, as amended by Act 156, Laws of 1881.]

AN ACT to provide for the taxation of the business of manufacturing and selling spirituous and intoxicating, malt, brewed, or fermented liquors, and to repeal act number two hundred and twenty-eight of the session laws of eighteen hundred and seventy-five, approved May three, eighteen hundred and seventy-five, as amended by act one hundred and ninety-seven, of the session laws of eighteen hundred and seventy-seven, approved May twenty-three, eighteen hundred and seventy-seven, as amended by act number one hundred and fifty-six, laws of eighteen hundred and eighty-one.

SECTION 1. In all townships, cities, and villages of this State there shall be paid annually the following tax upon the business of manufacturing, selling, or keeping for sale, by all persons whose business, in whole or in part, consists in selling, or keeping for sale, or manufacturing distilled or malt liquors, or mixed liquors, as follows: Upon the business of selling or offering for sale spirituous or intoxicating liquors or mixed liquors by retail, or any mixture or compound, excepting proprietary patent medicines, which in whole or in part consists of spirituous or intoxicating liquors, the sum of three hundred dollars per annum; upon the business of selling or offering for sale by retail any malt, brewed, or fermented liquors, two hundred dollars per annum; upon the business of selling brewed or malt liquors at wholesale, or at wholesale and retail, two hundred dollars per annum; upon the business of selling spirituous or intoxicating liquors at wholesale, or at wholesale and retail, five hundred dollars per annum; upon the business of manufacturing brewed or malt liquors for sale, if the quantity manufactured be less than fifteen hundred barrels, sixty-five dollars per annum, and twenty-five dollars upon each additional thousand barrels or part thereof; upon the business of manufacturing for sale spirituous or intoxicating liquors, five hundred dollars per annum. No person paying a tax on

spirituous or intoxicating liquors under this act shall be liable to pay any tax on the sale of malt, brewed, or fermented liquors. No person paying a manufacturer's tax on brewed or malt liquors under this act shall be liable to pay a wholesale dealer's tax on the same.

SEC. 2. Retail dealers of spirituous or intoxicating liquors, and brewed, malt, and fermented liquors, shall be held and deemed to include all persons who sell by the drink, and in quantities of five gallons or less, or one dozen quart bottles or less, at any one time, to any person or persons. Wholesale dealers shall be held and deemed to mean and include all persons who sell or offer for sale such liquors and beverages in quantities of more than five gallons, or more than one dozen quart bottles, at any one time, to any person or persons. No tax imposed under this act shall be required from any person for selling any wine or cider made from fruits grown or gathered in this State, unless such wine or cider be sold by the drink as other beverages are. The keeping or storing of spirituous liquors by a person or persons who has paid a tax on the business of selling or keeping for sale malt, brewed, or fermented liquors only, on the premises where such business of selling or keeping for sale malt, brewed, or fermented liquors is carried on, shall be deemed and held to be *prima facie* evidence of the keeping the said spirituous liquors for sale within the meaning of this act. The provisions of this act shall not apply to druggists who sell liquors for chemical, scientific, medical [medicinal], mechanical, or sacramental purposes only, and in strict compliance with law: *Provided*, That such druggists shall, on or before the first Monday in May in each year, or before commencing business, execute and file with the county treasurer a bond to the people of the State of Michigan, in the penal sum of three hundred dollars, with two good and sufficient sureties, to be approved by the said treasurer, or the township board of the township, or the board of trustees, or the common council of the village or city in which such druggists carry on their business, which shall be substantially as follows:

Know all men by these presents, that we, , as principal, and and as sureties, are held and firmly bound unto the people of the State of Michigan in the sum of three hundred dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents Sealed with our seals, and dated this day of , 18 .

Whereas, the aforesaid named principal (or principals) professes to carry on the business of a druggist at , in the county of , State of Michigan;

And whereas, The said principal hath covenanted and agreed as follows, to wit: That he will not directly or indirectly, by himself, his agent, clerks, or servant, at any time sell, furnish, give, or deliver any spirituous or intoxicating liquors, or any wine, beer, or malt liquors, or any mixture or compound, or any mixed liquors, a part of which is spirituous or intoxicating, to any person except for medicinal, mechanical, chemical, scientific, or sacramental purposes, during the year ending on the first Monday of May following the giving of this bond.

Now, therefore, the condition of this obligation is such that if the said shall not sell, furnish, give, or deliver any spirituous or intoxicating liquor, or any wine, beer, or malt liquor, or any mixture or compound, or any mixed liquor, a part of which is spirituous or intoxicating, to any person except for medicinal, mechanical, chemical, scientific, or sacramental purposes, then this obligation shall be void; otherwise of full force and virtue, and the full sum of three hundred dollars shall be collected and paid thereon.

Witnesses: .....[L. S.]

....[L. S.]

....[L. S.]

I approve of and as sureties in the foregoing bond.

.....

County Treasurer.

And the prosecuting attorney of any county in this State is required, whenever he believes that the condition of any such bond in his county has been violated, to bring a suit upon such bond, in a court of competent jurisdiction, and it shall be his duty, when complaint on oath is made to him that the condition of such bond has been violated, giving the time and place of such violation, and the circumstances attending the same, to prosecute said bond. And said penalty, when collected, shall be placed to the credit of the fund designated in section eight of this act.

SEC. 3. Every person engaged in or intending to engage in any business named in section one of this act, and requiring the payment of any tax mentioned in said section one, shall, on or before the first Monday in May in each year, make and file with the county treasurer, in the county where it is proposed to carry on such business, a statement in writing and on oath, showing the name and residence of such person, the ward, village, or township in which it is proposed to carry on such sale or manufacture, and the nature of the business which such person is engaged in, or is intending to engage in; and shall, on or before the first Monday in

May in each year, pay to the said county treasurer, in advance, the taxes required by said section one for such business, for the year commencing on said first Monday of May, and ending on the first Monday of May next thereafter.

SEC. 4. Any person engaging in any such business after the first Monday in May in each year shall, before commencing such business, make and file the like statement on oath as is provided for in section three of this act, and pay in advance to said county treasurer a *pro rata* portion of the yearly tax on such business as provided in section one, for the remainder of the year ending on the first Monday of May next ensuing; and in computing the time of such fractional part of a year for which a tax is demanded, the tax shall commence on the first Monday of that month in which said business shall commence. But no tax shall be less than one-half of the yearly tax.

SEC. 5. On receiving the tax provided for in this act the county treasurer shall give a receipt for the money so paid to the person or persons of whom the same shall be received, in which receipt the name of the person or persons paying the tax shall be named, the amount of the tax and the time for which it was paid, the city, village, or township in which the business is to be conducted, and the kind of business for or on account of which the tax was paid; and also a notice, printed on full size printer's card-board, and in as large letters as practicable, which notice shall contain a statement of what tax has been paid by the holder of said notice and the penalty for selling liquors of a class different from that for which the tax has been paid, and that ten dollars costs will be paid to the person making complaint upon the conviction of the offender, and that complaint may be made to any justice of the peace or police justice; and before commencing or doing any business for the time for which such tax is paid, and the receipt is given, the same shall be posted up, and at all times displayed in a conspicuous place in the room or place where the sale of the liquors or beverages named in this act, and for which the tax was paid, is carried on, so that such receipt and notice shall be displayed in a conspicuous manner to all persons visiting or frequenting such room or place; and any person or persons who shall carry on any business or sell any liquors or beverages, for which a tax is required to be paid by this act, without having such receipt and notice posted up and displayed at all times in the place where such business or sale is or are carried on, shall be deemed guilty of a misdemeanor, and shall be subject to the same fine and punishment as is provided in this act for the neglect or refusal to pay the tax required by this act. And it shall be the duty of the auditor-general to prepare

printed blank receipts and notices conforming to the provisions of this act, and to furnish the same in proper quantities to the several county treasurers of the State. And no county treasurer shall issue any such receipt or notice until the tax specified herein shall be paid in full.

SEC. 6. If any person or persons shall engage or be engaged in any business requiring the payment of a tax under section one of this act, without having paid in full the tax required by this act, and without having the receipt and notice for such tax posted up as required by this act, or shall in any manner violate any of the provisions of this act, such person or persons shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, and by imprisonment in the county jail not less than ten nor more than ninety days, in the discretion of the court. And for each and every day in which any person or persons shall be engaged in any such business without payment of the tax herein required, and without posting of the receipt and notice as herein provided, he shall be deemed guilty of a new, separate, and distinct violation of this act, and shall be punished therefor as above provided. And any person or persons who shall have paid a tax under the provisions of this act, and who shall thereafter extend or enlarge his said business, or do any act or thing contrary to the provisions of this act, or do anything requiring the payment of a larger tax, without having paid to the county treasurer such enlarged tax and posting the receipt and notice as required by this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished as herein provided.

SEC. 7. It shall be the duty of the supervisors or other officers whose duty it is to make assessments in townships, wards, villages, or cities, to report in writing to the county treasurer, within the first five days of each and every month, the names and residence of every person within his township, ward, village, or city violating this act. And such supervisor or other assessing officer shall receive for such services the sum of two dollars per day while actually and necessarily employed in such business, and mileage at the rate of ten cents per mile for the distance actually and necessarily travelled in going to notify such county treasurer, which fees shall be paid by the township, village, or city for which said services were rendered.

SEC. 8. All moneys paid to any county treasurer under the provisions of this act, after deducting his fees as herein provided, shall be by him placed to the credit of the contingent fund of the township, village, or city from which the same was collected, and shall

be by such county treasurer paid over, on demand, to the treasurer of such township, village, or city, and the said moneys so paid shall be by such township, village, or city applied as other contingent funds. The county treasurer shall receive and retain one per cent. on all moneys paid to him, as a recompense in full for all his services rendered under the provisions of this act.

SEC. 9. It shall be the duty of every county treasurer, sheriff, deputy sheriff, police officer, or other person having notice or knowledge of any violation of the provisions of this act, to immediately notify the prosecuting attorney of the county thereof, and it shall be the duty of such prosecuting attorney forthwith to prosecute every person violating any of the provisions of this act, and for each and every violation thereof.

SEC. 10. It shall be the duty of each and every county treasurer, at the end of each and every month, to make a full and complete report, under oath, containing the names of each and every person or persons in his county paying a tax during said month, under the provisions of this act, stating therein the residence of such person or persons, the nature of the business in which such persons are engaged, the place of doing business, the amount of tax paid and the date of payment of the same, and file such statement with the clerk of his county; and such county treasurer shall also, on or before the first day of December in each year, make a full and complete report of all the facts, as shown by said reports, and return the same to the auditor-general, and publish the same in some newspaper published in his county, if there be one, and in two if there be two. All blanks required to carry into effect the provisions of this act shall be prepared and furnished by the auditor-general to the county treasurers, and by them to the township, village, and city officers.

SEC. 11. In case any assessor, county treasurer, prosecuting attorney, or other officer whose duty it is to see that the provisions of this act are faithfully enforced, shall wilfully neglect or refuse to perform his duty under the provisions of this act, he shall be liable to a penalty of one hundred dollars for each and every offence, and the governor may, in case of such neglect or refusal, appoint some other person or persons to perform the duties prescribed by this act, who shall, upon being so appointed, have like powers and duties, and receive the same fees, under this act, as such assessor, treasurer, prosecuting attorney, or other officer, as the case may be; and in case of the appointment of any person in place of the prosecuting attorney, to prosecute for violation of this act, in any county, the board of supervisors shall allow and pay to such prosecutor a reasonable compensation for all services performed by him as such prosecutor.,

SEC. 12. Act number two hundred and twenty-eight of the session laws of eighteen hundred and seventy-five, approved May third, eighteen hundred and seventy-five, and act number one hundred and ninety-seven of the session laws of eighteen hundred and seventy-seven, approved May twenty-third, eighteen hundred and seventy-seven, are hereby repealed.

Approved May 31, 1879.

PUBLIC ACTS OF 1883 RELATIVE TO INTOXICATING LIQUORS.

[No. 178.]

AN ACT to amend act number two hundred and fifty-nine of the public acts of eighteen hundred and eighty-one, entitled "An act to regulate the sale of spirituous, malt, brewed, fermented, and vinous liquors, to prohibit the sale of such liquors to minors, intoxicated persons, and to persons in the habit of getting intoxicated, to provide a remedy against persons selling liquors to husbands or children, in certain cases, and to repeal all acts, or parts of acts, inconsistent herewith," approved June ten, eighteen hundred and eighty-one, by adding a new section thereto to stand as section fifteen of said act.

SECTION 1. *The People of the State of Michigan enact*, That act number two hundred and fifty-nine of the public acts of eighteen hundred and eighty-one, entitled "An act to regulate the sale of spirituous, malt, brewed, fermented, and vinous liquors, [to prohibit the sale of such liquors] to minors, to intoxicated persons, and to persons in the habit of getting intoxicated, to provide a remedy against persons selling liquor to husbands or children in certain cases, and to repeal all acts, or parts of acts, inconsistent herewith," approved June ten, eighteen hundred and eighty-one, be amended by adding a new section thereto, to stand as section fifteen of said act, as follows:

SEC. 15. It shall not be lawful for any person, including druggists, by himself, his clerk, agent, or servant, directly or indirectly, to sell or offer for sale, furnish or give, any spirituous, malt, brewed, fermented, or vinous liquors, or any beverage, liquors, or liquids containing any spirituous, malt, brewed, fermented, or vinous liquors, or suffer the same to be done, at any time, within a radius of two miles from the grounds or premises of the Michigan military academy, an institution of learning located near Orchard Lake, in the county of Oakland, in this State. For every violation of any of the

provisions of this section, the person so offending shall be punished by a fine of not less than two hundred dollars, nor more than five hundred dollars, or by imprisonment not exceeding one year, in the discretion of the court.

This act is ordered to take immediate effect.

Approved June 8, 1883.

[No. 183.]

AN ACT to amend section eight, of act number two hundred and sixty-eight, of the public acts of eighteen hundred and seventy-nine, entitled "An act to provide for the taxation of the business of manufacturing and selling spirituous and intoxicating, malt, brewed, or fermented liquors," approved May thirty-first, eighteen hundred and seventy-nine, as amended by act number one hundred and fifty-six, of the public acts of eighteen hundred and eighty-one, approved May nineteen, eighteen hundred and eighty-one.

SECTION 1. *The People of the State of Michigan enact*, That section eight of act number two hundred and sixty-eight, of the public acts of eighteen hundred and seventy-nine, entitled "An act to provide for the taxation of the business of manufacturing and selling spirituous and intoxicating, malt, brewed, or fermented liquors," approved May thirty-one, eighteen hundred and seventy-nine, as amended by act number one hundred and fifty-six, of the public acts of eighteen hundred and eighty-one, be amended so as to read as follows:

SEC. 8. All moneys paid to any county treasurer under the provisions of this act, after deducting his fees as herein provided, shall be by him placed to the credit of the contingent fund of the township, village, or city from which the same was collected, and shall be by such county treasurer paid over on demand to the treasurer of such township, village, or city, and the said moneys, so paid over, shall be by such township, village, or city applied to any township, village, or city purpose whatever which the township board, village board of trustees, or city council shall direct. The county treasurer shall receive and retain one per cent. on all [such] moneys paid to him, as a recompense in full for all his services rendered under the provisions of this act.

Approved June 8, 1883.

[No. 187.]

AN ACT to amend section thirteen of an act entitled "An act to regulate the sale of spirituous, malt, brewed, fermented, or vinous liquors, to prohibit the sale of such liquors to minors, to intoxicated persons, and to persons in the habit of getting intoxicated,

to provide a remedy against persons selling liquor to husbands or children in certain cases, and to repeal all acts or parts of acts inconsistent herewith."

SECTION 1. *The People of the State of Michigan enact*, That section thirteen of act number two hundred and fifty-nine, of the laws of eighteen hundred and eighty-one, being an act entitled "An act to regulate the sale of spirituous, malt, brewed, fermented, or vinous liquors, to prohibit the sale of such liquors to minors, to intoxicated persons, and to persons in the habit of getting intoxicated, to provide a remedy against persons selling liquor to husbands or children in certain cases, and to repeal all acts, or parts of acts, inconsistent herewith," be so amended as to read as follows:

SEC. 13. It shall not be lawful for any druggist, nor for any person whose business consists in whole or in part of the sale of drugs and medicines, directly or indirectly, by himself, his clerk, agent, or servant, at any time to sell, furnish, give, or deliver any spirituous, malt, brewed, fermented, or vinous liquors, or any mixed liquor a part of which is spirituous, malt, brewed, fermented, or vinous, to a minor, except for medicinal or mechanical purposes, on the written order of the parent or guardian of such minor, nor to any adult person whatever who is at the time intoxicated, nor to any person who is in the habit of getting intoxicated, nor to any Indian, or any person of Indian descent, nor to any person whose husband, wife, parent, child, guardian, or employer shall forbid the same, nor to any other person, to be used as a beverage, but such druggists shall be allowed to sell said liquors for medicinal, mechanical, and sacramental purposes only, and subject to the following restrictions and conditions: Every such dealer in drugs shall procure and keep a suitable blank-book, in which shall be recorded by said druggist, his clerk or employee, the names of all persons applying for such liquor for any of these lawful purposes, the date of each sale, the amount and kind of liquor sold to each person, and the purpose to which the same was to be applied, as stated by the purchaser, which book shall be kept in the store of said druggist, and shall be open to all persons for examination during all business hours, and the failure to keep a record of every such sale, or the delivery of liquor for any purpose other [than] above named, shall subject such druggist to the penalties provided for in this section. Every such druggist shall, before commencing business, and on or before the first Monday in May in each year thereafter, execute and file with the county treasurer a bond to the people of the State of Michigan, in the penal sum of not less than one thousand nor more than three thousand dollars, with two good and sufficient sureties, to be approved by the township board of the township, or the board of trustees, or the common council of the

village or city in which such druggist shall be carrying on such business, which bond shall be in lieu of all other bonds, and shall be substantially as follows:

Know all men by these presents: That we, , as principal, and and , as sureties, are held and firmly bound unto the people of the State of Michigan in the sum of two thousand dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors, and administrators firmly by these presents. Sealed with our seals, and dated this day of eighteen hundred and .....;

Whereas, The above-named principal proposes to carry on the business of a druggist at , in the county of , and State of Michigan;

And whereas, The said principal hath covenanted and agreed, and doth hereby covenant and agree, as follows, to wit: That he will not directly or indirectly, by himself, his clerk, agent, or servant, at any time sell, furnish, give, or deliver any spirituous, malt, brewed, fermented, or vinous liquors, or any mixed liquor a part of which is spirituous, malt, brewed, fermented, or vinous, to a minor, except for medicinal or mechanical purposes, on the written order of the parent or guardian of such minor, nor to any adult person whatever who is at the time intoxicated, nor to any person in the habit of getting intoxicated, nor to any Indian, nor to any person of Indian descent, nor to any person whose husband, wife, parent, child, guardian, or employer shall forbid such selling, furnishing, or giving [to] as aforesaid, nor to any person to whom the sale, furnishing, or giving of such liquors has been forbidden by the supervisor of the township, the mayor, director of the poor, or any supervisor or alderman of the city, or superintendent of the poor of the county in which such person may reside or temporarily remain; that he will sell such liquors for medicinal, mechanical, and sacramental purposes only, and that he will pay all damages, actual and exemplary, that may be adjudged to any person for injuries inflicted upon them, either in person or property, or means of support, by reason of his selling, furnishing, giving, or delivering any such liquors.

Now, the condition of this obligation is such that if said principal shall well and truly keep and perform all and singular the foregoing covenants and agreements, and shall pay any judgment for actual or exemplary damages which may be recovered against him in any court of competent jurisdiction, and all fines that may be imposed upon him for violation of this act, then this obligation shall be void and of no effect; otherwise the same shall be in full force and effect.

Signed and sealed in the presence of

..... [L.S.]
..... [L.S.]
..... [L.S.]

Whenever any druggist shall violate any of the provisions of this section he shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than two hundred dollars and costs of prosecution, and imprisonment in the county jail not less than ten days nor more than ninety.

Approved June 8, 1883.

[No. 191.]

AN ACT to amend ac number two hundred and fifty-nine, of the session laws of eighteen hundred and eighty-one, entitled "An act to regulate the sale of spirituous, malt, brewed, fermented, and vinous liquors; to prohibit the sale of such liquors to minors, to intoxicated persons, and to persons in the habit of getting intoxicated; to provide a remedy against persons selling liquors to husbands or children in certain cases, and to repeal all acts or parts of acts inconsistent herewith," by adding thereto a new section to stand as section sixteen.

SECTION 1. *The People of the State of Michigan enact*, That act number two hundred and fifty-nine, of the session laws of eighteen hundred and eighty-one, entitled "An act to regulate the sale of spirituous, malt, brewed, fermented, and vinous [liquors]; to prohibit the sale of such liquors to minors, to intoxicated persons, and to persons in the habit of getting intoxicated; to provide a remedy against persons selling liquors to husbands or children in certain cases, and to repeal all acts or parts of acts inconsistent herewith," be amended by adding thereto a new section to stand as section sixteen, and read as follows:

SEC. 16. Every wife, child, parent, guardian, husband, or other person who shall be injured in person or property or means of support by any intoxicated person, or by reason of the intoxication of any person, or by reason of the selling, giving, or furnishing any spirituous, intoxicating, fermented, or malt liquors to any person, shall have a right of action in his or her own name against any person or persons who shall, by selling or giving any intoxicating or malt liquor, have caused or contributed to the intoxication of such person or persons, or who have caused or contributed to such injury, and the principal and sureties to the bond hereinbefore mentioned shall be liable severally and jointly with the person or persons so selling, giving, or furnishing any spirituous, intoxicating, or malt

liquors as aforesaid, and in any action provided for in this section the plaintiff shall have a right to recover actual and exemplary damages. And in every action by any wife, husband, parent, or child, general reputation of the relation of husband and wife, parent and child, shall be *prima facie* evidence of such relation, and the amount recovered by every wife or child shall be his or her sole and separate property. Any sale or gift of intoxicating or malt liquors by the lessee or occupant of any premises, resulting in damages, shall, at the option of the lessor, work as forfeiture of the lease, and the circuit court in chancery may enjoin the sale, giving away, or furnishing of any intoxicating or malt liquors, by any lessee or occupant of the premises which may result in loss or damage, or liability to the lessor, or any person claiming under such lessor.

Approved June 8, 1883.

ILLINOIS.

THE following is the license and civil-damage law, approved January 13, 1872.

AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE STATE OF ILLINOIS.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That it shall be unlawful for any person or persons, by agent or otherwise, without first having obtained a license to keep a grocery, to sell, in any quantity, intoxicating liquors, to be drunk in, upon, or about the building or premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building, or premises, or other place of public resort connected with said building. *Provided*, That no person shall be granted a license to sell or give away intoxicating liquors without first giving a bond to the municipality or authority authorized by law to grant licenses; which bond shall run in the name of "The People of the State of Illinois," and be in the penal sum of three thousand dollars, with at least two good and sufficient securities, who shall be freeholders, conditioned that they will pay all damages to any person or persons which may be inflicted upon them, either in person, or property, or means of support, by reason of the person so obtaining a license selling or giving away intoxicating liquors; and such bond may be sued and recovered upon for the use of any person or persons, or their legal representatives, who may be injured by reason of the selling intoxicating liquors by the person or his agent so obtaining the license.

SEC. 2. It shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquor to minors, unless upon the written order of their parents, guardians, or family physicians, or to persons intoxicated, or who are in the habit of getting intoxicated.

SEC. 3. All places where intoxicating liquors are sold in violation of this act shall be taken, held, and declared to be common nuisances, and all rooms, taverns, eating-houses, bazaars, restaurants, drug stores, groceries, coffee-houses, cellars, or other places of public resort where intoxicating liquors are sold in violation of this act shall be shut up and abated as public nuisances, upon the

conviction of the keeper thereof, and shall be punished as herein provided.

SEC. 4. Every person who shall by the sale of intoxicating liquors, with or without a license, cause the intoxication of any other person shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person, and two dollars per day in addition thereto for every day such intoxicated person shall be kept in consequence of such intoxication; which sums may be recovered in an action of debt before any court having competent jurisdiction.

SEC. 5. Every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person, or property, or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and any person or persons owning, renting, leasing, or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, or who, having leased the same for other purposes, shall knowingly permit therein the sale of any intoxicating liquors that have caused, in whole or in part, the intoxication of any person, shall be liable, severally or jointly, with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained, and for exemplary damages; and a married woman shall have the same right to bring suits and to control the same and the amount recovered as a *femme sole;* and all damages recovered by a minor under this act shall be paid either to such minor or to his or her parent, guardian, or next friend, as the court shall direct; and the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant, under any lease or contract of rent upon the premises where such unlawful sale or giving away shall take place; and all suits for damages under this act may be by any appropriate action in any of the courts of this State having competent jurisdiction.

SEC. 6. For every violation of the provisions of the first and second sections of this act, every person so offending shall forfeit and pay a fine of not less than twenty nor more than one hundred dollars, and be imprisoned in the jail of the county not less than ten nor more than thirty days, and pay the costs of prosecution; and for every violation of the provisions of the third section of this

act every person convicted as the keeper of any of the places therein declared to be nuisances shall forfeit and pay a fine of not less than fifty nor more than one hundred dollars, and be imprisoned in the jail of the county for not less than twenty nor more than fifty days, and pay the costs of prosecution; and such place or places so kept by such person or persons so convicted shall be shut up and abated upon the order of the court before whom such conviction may be had, until such time as such person or persons keeping such places shall give bond and security, to be approved by said court, in the penal sum of one thousand dollars, payable to the State of Illinois, conditioned that he, she, or they will not sell intoxicating liquors contrary to the laws of this State, and will pay all fines, costs, and damages assessed against such keeper or keepers for any violation thereof; and, in case of a forfeiture of such bond, suit may be brought thereon for the use of any person interested, or for the use of the county, in case of a fine or costs due such county. *Provided*, That the penalties in the nature of fines mentioned in this section may be enforced separately, from the imprisonment, before justices of the peace, or police magistrates.

SEC. 7. The giving away of intoxicating liquors, or other shift or device to evade the provisions of this act, shall be deemed and held to be an unlawful selling within the provisions of this act.

SEC. 8. For the payment of all fines, costs, and damages assessed against any person or persons, in consequence of the sale of intoxicating liquors, as provided in section five of this act, the real estate and personal property of such person or persons, of every kind, except such as may be exempt under the homestead laws of this State, or such as may be exempt from levy and sale upon judgment and execution, shall be liable, and such fines, costs, and damages shall be a lien upon such real estate until paid; and, in case any person or persons shall rent or lease to another or others any building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, or shall permit the same to be so used or occupied, such building or premises so used or occupied shall be held liable for and may be sold to pay all fines, costs, and damages assessed against any person or persons occupying such building or premises. Proceedings may be had to subject the same to the payment of any such fine and costs assessed, or judgment recovered, which remain unpaid, or any part thereof, either before or after execution shall issue against the property of the person or persons against whom such fine and costs or judgment shall have been adjudged or assessed; and, when exe-

cution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid; and, in case such building or premises belong to a minor, insane person, or idiot, the guardian of such minor, insane person, or idiot, and his or her real and personal property, shall be held liable instead of such minor, insane person, or idiot, and his or her property shall be held subject to all the provisions of this section relating to the collection of fines, costs, and damages.

SEC. 9. The penalty and imprisonment mentioned in the sixth section of this act may be enforced by indictment in any court of record having criminal jurisdiction; and all pecuniary fines or penalties provided for in any of the sections of this act (except the fourth and fifth) may be enforced and prosecuted for before any justice of the peace of the proper county, in an action of debt, in the name of "The People of the State of Illinois," as plaintiff; and, in case of conviction, the offender shall stand committed to the common jail until the judgment and costs are fully paid; and the magistrate or court in which the conviction is had shall issue a writ of *capias ad satisfaciendum* therefor; and justices of the peace shall also have jurisdiction of all actions arising under the fourth and fifth sections of this act, when the amount in controversy does not exceed two hundred dollars, such actions to be prosecuted in the name of the party injured or entitled to the debt or damages provided for in said fourth and fifth sections.

SEC. 10. In all prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind of liquor sold, or to describe the place where sold; and for any violation of the third section of this act, it shall not be necessary to state the name of the person to whom sold; and in all cases the person or persons to whom intoxicating liquors shall be sold in violation of this act shall be competent witnesses to prove such fact or any other tending thereto.

HIGH-LICENSE LAW.

Passed and approved June, 1883.

A BILL for an act to restrict the powers of counties, cities, towns, and villages in licensing dram-shops, to provide for granting a license to retail malt liquors separately, and for punishing persons holding such separate license for unlawful sales and gifts.

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly*, That hereafter it shall not be lawful for the corporate authorities of any city, town, or village in this State to grant a license for the keeping of a dram-shop, except upon the payment in advance into the treasury of the city, town, or village granting the license such sum as may be determined by the respective authorities of such city, town, or village, not less than at the rate of five hundred dollars per annum: *Provided*, That in all cases where a license for the sale of malt liquors is granted, the city, town, or village granting such license may grant the same on the payment in advance of the sum of not less than at the rate of one hundred and fifty dollars per annum; and *provided further*, That the city council in cities, the board of trustees in towns, and the president and board of trustees in villages may grant permits to pharmacists for the sale of liquors for medical, mechanical, sacramental, and chemical purposes only, under such restrictions and regulations as may be provided by ordinance.

SEC. 2. The county boards of each county may grant licenses to keep as many dram-shops in their county as they may think the public good requires, upon the application by petition of a majority of the legal voters of the town, if the county is under township organization, and if not under township organization, then of a majority of the legal voters of the election precinct or district where the same is proposed to be located, and upon payment into the county treasury of such sum as the board may require, not less than five hundred dollars per annum for each license, and upon compliance with the provisions of an act entitled "An act to provide for the licensing of and against the evils arising from the sale of intoxicating liquors," approved March 30, 1874, in force July 1, 1874: *Provided*, That in all cases where a license is granted for the sale of malt liquors only, such board may grant the same upon payment into the county treasury of a sum not less than one hundred and fifty dollars per annum for each license: *Provided further*, Such board shall not have power to issue any license to keep a dram-shop in any incorporated city, town, or village, or within two miles of the same, in which the corporate

authority to license, regulate, restrain, or prohibit the sale of liquors, or in any place where the sale of liquors is prohibited by law.

SEC. 3. Any person having a license to sell malt liquors only who shall, by himself or another, either as principal, clerk, or servant, directly or indirectly sell or give any intoxicating liquors other than malt liquors in a less quantity than one gallon, or in any quantity, to be drank upon the premises, or in or upon any adjacent room, building, yard, or place of public resort, shall for each offence be fined not less than twenty dollars nor more than one hundred dollars, or confined in the county jail not less than ten nor more than thirty days, or both, in the discretion of the court. The penalties provided for in this section in any court of competent jurisdiction, or the fines only may be sued for and recovered before any justice of the peace of the proper county, and in case of conviction the offender shall stand committed to the county jail until the fines and costs are fully paid. A conviction under this section shall forfeit the license held by the defendant, and the court rendering judgment upon such conviction shall in such judgment declare a forfeiture of such license.

D.

NORTH CAROLINA.

We give the Local Prohibition Bill in full as it passed the Legislature and is now in force:

An Act to Prohibit the Sale of Spirituous Liquors in Townships where the People so determine.

Sec. 1. *The General Assembly of North Carolina do enact:* That it shall be the duty of the county commissioners of any county, upon petition of one-fourth of the qualified voters of any township in their respective counties, to order an election to be held on the first Monday in May in every year, to ascertain whether or not spirituous liquors shall or may be sold in said township or townships.

Sec. 2. That it shall be the duty of the sheriffs of each county to hold such township elections when so ordered, under the same rules and regulations as are prescribed by law for holding elections for members of the General Assembly, so far as the same may be applicable, except as herein modified.

Sec. 3. That any person allowed by law to vote for members of the General Assembly shall have the right to vote at such elections in the township where he is allowed by law to vote, and every such voter who favors the prohibition of the sale of spirituous liquors in his township shall vote a ticket on which shall be written or printed the word "prohibition," and every such voter who shall favor such sale shall vote a ticket on which shall be written or printed the word "license."

Sec. 4. That on the day next after any such election shall be held, the inspectors of such election and a justice of the peace of the township shall compare the votes polled in the township, and certify the number of votes cast in favor of "prohibition" and the number in favor of "license," and the result of such election, to the Register of Deeds of the county, who shall first carefully copy such certificates in a book to be prepared and kept for that purpose, and then file the same among the papers of his office; and a certified copy from the book in which such certificate is so

registered, under the hand of the Register of Deeds and the seal of the county, shall be sufficient evidence in all cases and courts in this State of the result of such election in the township to which the same may refer.

SEC. 5. That if a majority of the votes cast at any such election in any township shall have written or printed on the same the word "prohibition," then and in that case it shall not be lawful for the county commissioners to license the sale of spirituous liquors, or for any person to sell any spirituous liquors within such township for one year next after any such election; and if any person so prohibited shall sell any spirituous liquors within such township, such person offending shall be deemed guilty of a misdemeanor, and, on conviction of such offence, shall be fined not exceeding fifty dollars, or imprisonment not exceeding one month; but if a majority of the votes so cast shall have written or printed on the same the word "license," then spirituous liquors may be sold in such townships, as now provided by law, and not otherwise; provided that nothing herein contained shall affect localities in which the sales of spirituous liquors are prohibited by law.

SEC. 6. The sheriff shall designate the justice of the peace in each township to aid in comparing and certifying the vote cast at any such election, and the Register of Deeds shall designate inspectors of elections in each township; in case he shall fail, the sheriff or his deputies shall make such appointments; and if any officer or other persons shall fail to discharge any duty imposed by this act, such person offending shall be guilty of a misdemeanor, and, on conviction in the Superior Court, fined in the discretion of the court.

SEC. 7. This act shall take effect and be in force from and after the first day of April, 1874.

53000 Dem Maj-

SOUTH CAROLINA.

AN act to further regulate the sale of intoxicating liquors in this State.

Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and the authority of the same:

SECTION 1. That from and after the passage of this act no license for the sale of spirituous or intoxicating liquors shall be granted in South Carolina outside of the incorporated cities, towns, and villages of this State, and it shall be unlawful for any person or persons to sell liquors without a license so to do.

SEC. 2. No license for the sale of intoxicating liquors shall be granted by any municipal authorities in any city, town, or village in the State, except upon the payment by the person applying for the same to the treasurer of the county in which such city, town, or village is situated the sum of one hundred dollars, in addition to the license charged by such city, town, or village, for the use of such county, to be applied to the ordinary expenses of the county: *Provided*, That for all licenses for the sale of intoxicating liquors granted within the limits of the city of Charleston the said sum of one hundred dollars shall be paid by the parties obtaining such licenses to the treasurer of the said city of Charleston, for the use of the said city, instead of to the treasurer of the county of Charleston: *Provided, however*, That the amount now charged by the said city council of Charleston for a license for the sale of intoxicating liquors shall not be reduced in consequence of the foregoing provision, but that the aggregate of the license fees charged under this act, and under the ordinances of the said city, for the sale of intoxicating liquors within the limits of the city shall not at any time be less than two hundred dollars.

SEC. 3. That hereafter the sale of all wines, fruits prepared with spirituous liquors, bitters, or other beverages of which spirituous liquors form an ingredient, be and the same is hereby prohibited within the limits of this State, except in the incorporate limits of cities, towns, and villages, where they shall only be sold under the same terms as intoxicating liquors are provided for in section 2 hereof.

SEC. 4. Any person violating any of the provisions of this act shall,

upon conviction thereof, be fined in a sum of not less than two hundred dollars, or imprisoned for a term of not less than six months, or both fined and imprisoned, in the discretion of the court trying the case.

SEC. 5. This act shall not take effect as to any licenses already granted in any county, city, town, or village until such licenses now granted shall expire.

SEC. 6. Nothing in this act contained shall be construed to authorize the issuing of any license for the sale of intoxicating liquors in any city, town, or village within this State, where the sale of such liquors is now or may hereafter be prohibited, either under act of the General Assembly or by ordinance of the respective municipal authorities of said city, town, or village.

Adopted January, 1881.

THE LOCAL-OPTION LAW.

An Act to Promote the Cause of Temperance.

An Act to provide a Local-Option Law for the Incorporated Cities, Towns, and Villages of this State.

Section 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That whenever a number of the citizens of any incorporated city, town, or village in this State, equal to one-third of the number of votes cast in the next preceding municipal election therein, shall, in writing, on or before the fifteenth day of November in any year, petition for an election upon the question of "license" or "no license" for the sale of intoxicating liquors therein, the council of such city, town, or village is hereby authorized and required to submit such question to the qualified electors of such city, town, or village, at a special election to be held therein, on or about the first day of December following; and if a majority of said electors vote in favor of "license," then the council of such city, town, or village shall grant license according to the laws now of force in the State for the sale of liquors in such city, town, or village for the ensuing year; but if a majority of said electors vote in favor of "no license," then it shall be unlawful for the council of such city, town, or village so voting to grant any license for the sale of any spirituous or intoxicating liquors, bitters, or fruits prepared with such liquors for the ensuing year.

Sec. 2. Hereafter all licenses for the sale of spirituous or intoxicating liquors in the incorporated cities, towns, or villages of this State shall be granted in such manner as to end on the thirty-first day of December in the year for which they shall be granted.

Sec. 3. That whenever a majority of the electors of any incorporated city, town, or village vote in favor of "license," such license shall be granted from year to year until another vote shall be had under the provisions of this act with a different result; and whenever a majority of such electors vote in favor of "no license," the council of such city, town, or village shall from year to year refuse to grant licenses until another election shall be held under the provisions of this act with a different result.

Sec. 4. This act shall not apply to any city, town, or village in which the sale of ardent spirits is now or shall hereafter be prohibited by legislative enactment.

Sec. 5. That whenever the majority of the electors of any such incorporated city, town, or village shall vote in favor of "no license,"

it shall be unlawful for any druggist therein to sell, during the time when no licenses for the sale of spirituous liquors are granted, any spirituous or intoxicating liquors, bitters, or fruits prepared with such liquors, except upon the certificate of a regular practising physician in actual attendance upon a patient, such certificate to contain the name of the patient, and shall be filed by the druggist filling the same, and kept for the period of one year subject to inspection at any time the council of such city, town, or village may direct.

SEC. 6. It shall be unlawful for any physician to give a prescription for any such liquors except when actually in *bona fide* attendance upon a patient.

SEC. 7. That any person violating sections 5 or 6 of this act shall, upon conviction, be fined in a sum of not less than two hundred dollars, or imprisoned for not less than three months, or both fined and imprisoned, in the discretion of the court.

SEC. 8. All elections under this act shall be conducted according to the laws now governing the municipal elections of the city, town, or village in which they are held.

SEC. 9. All acts or parts of acts inconsistent with this act are hereby repealed, so far as they may interfere with the provisions of this act.

Approved February 9, A.D. 1882.

FLORIDA.

The following is the full text of the law recently adopted by the Legislature:

AN ACT to regulate the sale of liquors, wines, and beer in the State of Florida by the boards of county commissioners of the several counties.

The people of the State of Florida, represented in Senate and Assembly, do enact as follows:

SECTION 1. That from and after the passage of this act it shall not be lawful for any person or persons, firm or firms, to sell any intoxicating liquors, wines, or beer in any election district in any county in this State except as hereinafter provided.

SEC. 2. Any person or persons, firm or firms, wishing to sell liquors, wines, or beer shall make application to the board of county commissioners of the county in which the privilege of such sale is desired, at a regular meeting of said board, for a license to sell such liquors, wines, or beer, said application to be signed by a majority of the registered voters in such election district as shown by the registration list on file in the office of the clerk of the circuit court at the date of such application asking such board to grant to said applicant the right to sell such liquors, wines, or beer, and the said applicant shall be required to make affidavit that each and every name or mark affixed to such petition was the act and deed of the party purporting to have signed the same, which said signing shall be in the presence of at least two credible witnesses, and that there was no fraud, bribery, or deception in procuring said signatures or marks to said petition, and said petition with the names and marks thereto attached shall be published in full, at the expense of the petitioner, in a paper published in said county, and if there is no paper published in said county, then a copy of said petition and signatures shall be posted at the county site, and at the election precinct of the district wherein such license is sought, for the space of two weeks before the county commissioners meet to hear such petition.

SEC. 3. No collector of revenue of any county shall issue license to any person or persons, firm or firms, unless a permit is presented from the board of county commissioners, and such license so issued shall

contain a provision that the same may be suspended or revoked by the board of county commissioners for any of the causes hereinafter set forth.

SEC. 4. No person or persons, firm or firms, in this State shall sell any liquors, wines, or beer to any minor or any person in a state of intoxication.

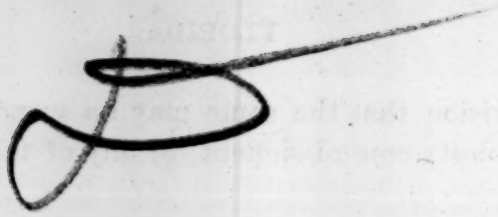
SEC. 5. The county commissioners shall have the right, and shall exercise the same, to suspend at any time the license of any dealer in liquors, wines, or beer in their respective counties upon the affidavit of two or more reliable citizens that such dealer has sold any intoxicating beverage to any minor or any person in a state of intoxication.

SEC. 6. Such affidavit shall be made before the clerk of the circuit court, and the said clerk shall notify the dealer by written notice, served by a constable or sheriff, requiring said dealer to appear before the board of county commissioners at its regular meeting next thereafter, and the board shall take the proof, hear and determine whether there has been such violation as is complained of, and, if the charge is sustained, revoke said license.

SEC. 7. Any person violating the provisions of this act shall be answerable to the penalties now prescribed by law for selling liquor without license, and shall be tried in the manner prescribed for the same. *Provided*, that the same shall not apply to the sale of domestic wines by the person making the same, nor when liquors, wines, and beer are sold under a license obtained before the passage of this act, and until the expiration of the same, but any person or firm who shall give or by pretended sale of a different article furnish any liquor, wine, or beer to his, her, or their customers, or permit the same to be done with the view to entice custom or evade the law, shall be deemed selling without license and liable to the penalties for the same.

SEC. 8. All laws and parts of laws in conflict with this act are hereby repealed.

Approved March 3, 1883.



TEXAS.

Texas has a local prohibitory law, passed in 1876, as follows:

CHAPTER XXXIII.

AN ACT to prohibit the sale, exchange, or gift of intoxicating liquors in any county, justice's precinct, city, or town in this State that may so elect; prescribing the mode of election, and affixing a punishment for its violation.

SECTION 1. *Be it enacted by the Legislature of the State of Texas*, That it shall be the duty of the commissioners' court of each county in the State, upon the written petition of fifty qualified voters of said county, or upon such petition by twenty qualified voters of any justice's precinct, town, or city therein, to order an election to be held by the qualified voters of said county, justice's precinct, town, or city, as the case may be, to determine whether the sale of intoxicating liquors, and medicated bitters producing intoxication, shall be prohibited in such county, justice's precinct, town, or city, or not. *Provided*, that nothing herein contained shall be construed to prohibit the sale of wines for sacramental purposes; nor alcoholic stimulants as medicines in cases of actual sickness, when sold upon the written prescription of a regular practising physician, certifying upon honor that the same is actually necessary as a medicine.

SEC. 2. It shall be the duty of such court, at its first session, after the filing of such petition with the clerk thereof, to order an election to be held at the regular voting place or places within the proposed and prescribed limits, upon a day not exceeding thirty days from the date of said order; and said order shall express the object of said election. The clerk shall post, or cause to be posted, at least five copies of said order at different public places in each justice's precinct, town, or city in which such election shall be held, for at least twenty days prior to the day of election. Said court shall appoint and qualify the proper officers under existing laws. At said election those who favor the prohibition of the sale of intoxicating liquors within the prescribed limits shall have written or printed on their tickets the words "For Prohibition"; and those who oppose it shall endorse on their tickets the words "Against Prohibition." The officers holding said election shall in all respects not herein

specified conform to the existing laws regulating elections; and after the polls are closed, they shall proceed to count the vote; and they shall, within ten days thereafter, make due report of said election to the aforesaid court.

SEC. 3. Said court shall hold a special session on the eleventh day after the holding of the aforesaid election, or as soon thereafter as practicable, for the purpose of opening the polls and counting the votes; and if a majority of the votes cast are "For Prohibition," said court shall immediately make an order declaring the result of said vote, and absolutely prohibiting the sale of intoxicating liquors within the prescribed bounds (except for the purposes specified in section one of this act), until such time as the qualified voters therein may, at a legal election held for the purpose, by a majority vote, decide otherwise; and said order of court so declaring the result of election and prohibiting the sale of intoxicating liquors shall be published for four successive weeks in the newspaper having the largest circulation in the county; and in such counties as shall have no newspaper, by posting said order at three public places within the prescribed limits. But if a majority voting at such election vote "Against Prohibition," the court shall make an order declaring the result, and have the same entered of record in the office of the clerk of said court.

SEC. 4. No election under the foregoing sections shall be held within the same prescribed limits in less than twelve months after an election under this act has been held therein; but a failure to carry prohibition in a county shall not prevent such election being immediately thereafter held in a justice's precinct, town, or city of said county; nor shall the failure to carry prohibition in a town or city prevent an election being immediately thereafter held in the same justice's precinct; nor shall the holding of such election in any justice's precinct in any way prevent the holding of an election for the entire county immediately thereafter.

SEC. 5. When any such election has been held, and has resulted in favor of prohibition, and the aforesaid court has made the order declaring the result, and the order of prohibition, and has caused the same to be published as aforesaid, any person or persons who shall thereafter, within the prescribed bounds of prohibition, sell, exchange, or give away, with the purpose of evading the provisions of this act, any intoxicating liquors whatsoever, or in any way violate any of the provisions of this act, shall be subject to prosecution, by information or indictment, and shall be fined in a sum not less than twenty-five nor more than two hundred dollars for each and every violation of any of the provisions of this act.

SEC. 6. It is hereby made the duty of the district judges to give

this act in charge to the grand juries; and it is made the especial duty of the county attorneys, the county judges, and all justices of the peace having jurisdiction in the premises to see that this act is rigidly enforced. An officer failing to discharge his duties under this act in any respect shall be subject to indictment, and, if convicted, shall be fined not less than one hundred nor more than one thousand dollars. All fines collected under this act shall be paid into the county treasury, and shall continue a part of the school fund for the county, justice's precinct, town, or city in which the law is in force.

SEC. 7. All laws and parts of laws in conflict with this act are hereby repealed.

Approved June 24, 1876.

Takes effect ninety days after adjournment.

KANSAS.

THE following is the Prohibitory Law adopted by the Legislature of Kansas February, 1881:

An act to prohibit the manufacture and sale of intoxicating liquors, except for medical, scientific, and mechanical purposes, and to regulate the manufacture and sale thereof for such excepted purposes.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Any person or persons who shall manufacture, sell, or barter any spirituous, malt, vinous, fermented, or other intoxicating liquor shall be guilty of a misdemeanor, and punished as hereinafter provided: *Provided, however,* That such liquors may be sold for medical, scientific, and mechanical purposes, as provided in this act.

SEC. 2. It shall be unlawful for any person or persons to sell or barter, for medical, scientific, or mechanical purposes, any malt, vinous, spirituous, fermented, or other intoxicating liquors without first having procured a druggist's permit therefor from the probate judge of the county wherein such druggist may at the time be doing business, and such probate judge is hereby authorized, in his discretion, to grant a druggist's permit for the period of one year to any person of good moral character who is lawfully and in good faith engaged in the business of druggist in his county, and who, in his judgment, can be entrusted with the responsibility of selling said liquors for the purposes aforesaid, in the manner hereinafter provided. In order to obtain a druggist's permit under this act, the applicant therefor shall present to the probate judge of the county wherein such person is engaged in business a petition, signed by at least twelve citizens of the township or city wherein such business is located, certifying that the applicant is a person of good moral character, and lawfully engaged in the business of a druggist. He shall also file with such petition a good and sufficient bond to the State of Kansas in the sum of twenty-five hundred dollars, conditioned that such applicant will neither use, sell, barter, nor give away any of the liquors mentioned in section 1 of this act in violation of any of the provisions of this act, and on such violation said bond shall thereby become forfeited. Such bond must be signed by the applicant, and by at least two of the persons signing such petition as sureties, and such sureties must jointly or severally justify in writing, under oath, in the sum of five thousand dollars over and above

all their debts, legal exemptions, and liabilities: *Provided*, That in cities, towns, and places of less than five thousand population said bond may be in the sum of one thousand dollars, and the sureties shall justify as provided above in the sum of two thousand dollars. The probate judge shall consider such petition and bond, and if satisfied that the petition is true, and that the bond is sufficient under this act, may in his discretion grant a permit to the applicant to sell intoxicating liquors for medical, scientific, and mechanical purposes only, and thereupon, before delivering said permit, and before it shall be of any validity, the probate judge shall record upon the journal of his court the said permit, together with his order granting the same, and the bond filed therewith and justification thereon, which said permit shall be posted in a conspicuous place in the store where such business is carried on. The probate judge shall receive for said services the sum of five dollars, to be paid by the applicant.

SEC 3. Any physician who is regularly engaged in the practice of his profession as a business, and who in cases of actual sickness shall deem any of the liquors mentioned in the first section of this act necessary for the health of his patient, may give such a patient a written or printed prescription therefor. But no such prescription shall be made or given except in case of actual sickness, and when, in the judgment of such physician, the use of intoxicating liquor is necessary as a remedy. Whenever, in the treatment of a minor, it shall be necessary to use intoxicating liquor as a remedy, the same shall be procured by his parent or guardian, or some other person of full age, to whom such physician may deliver a prescription for that purpose. Every physician, before making any prescription for intoxicating liquor, shall make and file with the probate judge of the county wherein he may practise his profession an affidavit before some officer of the county authorized to administer oaths, in substance as follows:

STATE OF KANSAS, COUNTY OF ———, *ss.*:

I, A. B., do solemnly swear that I am a practising physician of the State of Kansas, residing in the county of ——— in said State, and I do further solemnly swear that I will not prescribe intoxicating liquors of any kind for any person or persons whomsoever, unless in case of actual sickness, and when the same is necessary for the health of the patient; that I will in all things faithfully keep, observe, and perform all the requirements and conditions of the laws of Kansas regulating the sale and use of intoxicating liquors, so help me God.

(Signed) ———

Sworn to before me, and subscribed in my presence, this —— day of ——, A.D. 18——.

And such affidavit shall be renewed and filed at the expiration of each five years of said physician's practice. Every physician, or person assuming to act as such, who shall make a prescription for any intoxicating liquors without having made and filed the affidavit in this section provided, or who shall, after making and filing such affidavit, violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars; and for any second or subsequent offence shall, upon conviction, be subject to the same fine, and in addition thereto shall be imprisoned in the county jail not less than thirty days nor more than six months. No druggist shall sell upon or fill any prescription for intoxicating liquors until the physician making the same shall have made and filed the affidavit in this section provided, and shall not continue such sales for more than five years after such affidavit is filed, unless a new affidavit is filed, as required by this section. The probate judge shall forthwith deliver to each licensed druggist in his county a certificate of the filing of each physician's affidavit required by this act.

SEC. 4. Any druggist having a permit to sell intoxicating liquors under the provisions of this act may sell for medical purposes only upon the written or printed prescription of a practising physician, duly signed by such physician, and who has made and filed the affidavit mentioned in the preceding section; and for scientific and mechanical purposes only upon a written or printed application, which shall be dated, and shall set forth the name of the applicant, his residence and occupation, the kind and quantity of liquor required, and the purpose for which it is required, and shall have appended thereto an affidavit by the applicant, made before some officer authorized to administer oaths in his county, that the statements contained in such application are true; and all such applications shall be retained by the druggist selling thereon, and at the end of every thirty days, or sooner, shall be by him filed in the probate court out of which his permit issued, where they shall be safely kept for the period of two years from the date of the filing of each. Every person wilfully taking a false oath in making such application shall be guilty of perjury, and upon conviction therefor in any court having jurisdiction shall be punished as provided by law for perjury in other cases: *Provided, however*, That no sales of intoxicating liquors shall be made by any such druggist, knowingly, to any minor in any case, except upon prescription for medical purposes, as in this act provided. The said druggist shall file away and keep all prescriptions for intoxicating liquors, and prescriptions partly for intoxicating liquors, by him

filled, and shall also keep a book in which he shall make a record of all sales of intoxicating liquors by him made, which record shall show the names and residence of all purchasers of such liquors, the kind and quantity sold, the purpose for which sold, the date of such sales, the prices received, and if upon prescription, the name of the physician making the same. The record so kept shall be open to the inspection of the public at all reasonable times during business hours: *Provided*, That any druggist having a permit to sell intoxicating liquors under this act may sell such liquors in quantities not less than one gallon to any other druggist having a like permit.

SEC. 5. No person shall manufacture or assist in the manufacture of intoxicating liquors in this State except for medical, scientific, and mechanical purposes. Any person or persons desiring to manufacture any of the liquors mentioned in section 1 of this act for medical, scientific, and mechanical purposes shall present to the probate judge of the county wherein such business is proposed to be carried on a petition asking a permit for such purpose, setting forth the name of the applicant, the place where it is desired to carry on such business, and the kind of liquor to be manufactured. Such petition shall have appended thereto a certificate signed by at least twelve citizens of the township or city where such business is sought to be established, certifying that such applicant is a person of good moral character, temperate in his habits, and a proper person to manufacture and sell intoxicating liquors. Such applicant shall file with said petition a bond to the State of Kansas in the sum of ten thousand dollars, conditioned that for any violation of the provisions of this act said bond shall be forfeited. Such bond shall be signed by said applicant or applicants as principal or principals, and by at least three sureties, who shall justify under oath in the sum of seven thousand dollars each, and who shall be of the number signing said petition. The probate judge shall consider such petition and bond, and if satisfied that such petition is true, and that the bond is sufficient, may in his discretion grant a permit to manufacture intoxicating liquors for medical, scientific, and mechanical purposes. The said permit, the order granting the same, and the bond and justification thereon shall be forthwith recorded by said probate judge in the same manner and with like effect as in case of a permit to sell such liquors as provided in section 2 of this act, and the probate judge shall be entitled to the same fee for his services, to be paid by the applicant. Such manufacturer shall keep a book, wherein shall be entered a complete record of the liquors manufactured by him, the sales made, with the dates thereof, the name and residence of the purchaser, the kind and quality of liquors sold, and the price received or charged therefor.

An abstract of such record, verified by the affidavit of the manufacturer, shall be filed quarterly in said probate court at the end of each quarter during the period covered by such permit. Such manufacturer shall sell the liquors so manufactured only for medical, scientific, and mechanical purposes, and only in original packages. He shall not sell said liquors for medical purposes except to druggists who at the time of such sale shall be duly authorized to sell intoxicating liquors as provided in this act; and he shall sell such liquors to no other person or persons, associations or corporations, except for scientific and mechanical purposes, and then only in quantities not less than five gallons.

SEC. 6. All sales made by such manufacturer shall be upon a written or printed application, setting forth the name, occupation, and residence of the applicant, the quantity and kind of liquors wanted, and for what purpose; and all such applications shall be verified by the affidavit of the applicant, made before some officer in the county having authority to administer oaths, that the statements in said application are true. Such manufacturer shall file all such applications in the probate court of the county wherein the applicant resides, within thirty days after receiving the same, where they shall be kept on file for two years from the date of such filing. Every person who shall wilfully swear falsely in making any of the affidavits in this section and in section 5 of this act provided shall be deemed guilty of perjury, and shall be prosecuted and punished therefor as in other cases arising under the laws of this State relating to perjury. Any rectification or adulteration of intoxicating liquors shall be considered manufacturing under this act. The record kept by such manufacturer shall be open to the inspection of the public at all reasonable times during business hours.

SEC. 7. Any person, without taking out and having a permit to sell intoxicating liquors as provided in this act, who shall directly or indirectly sell or barter any spirituous, malt, vinous, fermented, or other intoxicating liquor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than ninety days; and for a second offence shall be fined in any sum not less than two hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than sixty days nor more than six months; and for a third and every subsequent offence shall be fined in a sum not less than five hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not less than three months nor

more than one year, or shall suffer both such fine and imprisonment, in the discretion of the court.

SEC. 8. Any person, without taking out and having a permit to manufacture intoxicating liquors, as provided in this act, who shall manufacture, or aid, assist, or abet in the manufacture, of any of the liquors mentioned in section 1 of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall suffer the same punishment as provided in the last preceding section of this act for unlawfully selling such liquors.

SEC. 9. Every person having a permit to sell intoxicating liquors, or to manufacture and sell intoxicating liquors, under the provisions of this act, who shall sell or barter such liquor in any other manner or for any other purpose than in this act provided, or who shall violate any of the provisions of this act, shall, upon conviction thereof, be deemed guilty of misdemeanor, and shall be fined in any sum not less than one hundred dollars nor more than three hundred dollars for the first offence, or be imprisoned in the county jail not less than thirty days nor more than ninety days, and in addition thereto shall forfeit his permit to sell under this act; for a second offence he shall be fined in a sum not less than three hundred dollars nor more than five hundred dollars, or shall be imprisoned in the county jail not less than thirty days nor more than ninety days, and forfeit his permit, and for a period of five years his right to obtain a permit, to sell intoxicating liquors under this act; and for a third and every subsequent offence he shall be fined in a sum not less than five hundred dollars nor more than one thousand dollars, or shall be imprisoned in the county jail not less than three months nor more than one year, and shall forfeit his permit, and his right for ever to obtain a permit, to sell intoxicating liquors in this State under the provisions of this act. In all cases where forfeitures are provided in this act the court, in rendering judgment in the action, shall declare such forfeiture in fixing the punishment.

SEC. 10. All liquors mentioned in section 1 of this act, and all other liquors or mixtures thereof, by whatever name called, that will produce intoxication, shall be considered and held to be intoxicating liquors within the meaning of this act.

SEC. 11. A permit to sell intoxicating liquor under this act shall continue in force for one year from the date thereof, unless sooner forfeited under the provisions of this act; and a permit to manufacture and sell intoxicating liquor under this act shall continue in force for a period of five years from the date thereof, unless sooner forfeited under the provisions of this act: *Provided*, That the probate judge may require a renewal of the bond of said manufacturer at the end of

any year by giving thirty days' notice to the principal in such bond, requiring him to renew such bond, and in default of his giving a new bond with sureties, to the satisfaction of such probate judge, after having been so notified, he shall forfeit his permit to manufacture and sell intoxicating liquors under this act; such forfeiture shall be declared by such probate judge, and entered of record in said probate court.

SEC. 12. It shall be the duty of all sheriffs, under-sheriffs, deputy-sheriffs, constables, marshals, and police officers of cities or towns, having any notice or knowledge of any violation of the provisions of this act, to notify the county attorney of the county of the fact of such violation, with the name of any witnesses within his knowledge by whom such violation can be proven. If any such officer shall fail in any case to comply with the provisions of this section he shall on conviction thereof be adjudged guilty of a misdemeanor, and fined in any sum not exceeding one hundred dollars, and such conviction shall be deemed a removal of such officer from office. If the county attorney of any county shall be notified by any officer or other person of any violation of any of the provisions of this act, it shall be his duty forthwith to diligently enquire into the facts of such violation; and if there is reasonable ground for instituting a prosecution, it shall be the duty of such county attorney to file a complaint in writing before some court of competent jurisdiction, charging the suspected person of such offence, and shall verify such complaint by affidavit, but it shall be sufficient to state in such affidavit that he believes the facts stated in such complaint to be true. If any county attorney shall fail or refuse to faithfully perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor, and on conviction thereof in the district court shall be fined in any sum not exceeding five hundred dollars, and on such conviction shall be deemed to be removed from office. If in any prosecution begun by the county attorney under the provisions of this section there shall be a failure to convict, the proper costs of such prosecution shall be paid by the county in which such prosecution was begun. It shall be the duty of the county attorney, under penalty of forfeiture of his office, to prosecute any and all persons guilty of any violations of the provisions of this act, and for each successful prosecution he shall be allowed a fee of fifteen dollars, which shall be taxed as costs in the case, but the county in no case shall be liable therefor. The county attorney shall bring suit on all bonds forfeited under the provisions of this act, immediately upon the happening of such forfeiture, to recover the penalty thereof; and all moneys collected thereon shall be paid into the school fund of the proper county. The county attorney shall be

allowed a fee of ten per cent. upon all moneys so collected by him, to be paid out of the same.

SEC. 13. All places where intoxicating liquors are manufactured, sold, bartered, or given away in violation of any of the provisions of this act, or where intoxicating liquors are kept for sale, barter, or use in violation of this act, are hereby declared to be common nuisances; and upon the judgment of any court having jurisdiction, finding such place to be a nuisance under this section, the sheriff, his deputy, or under-sheriff, or any constable of the proper county, or marshal of any city where the same is located, shall be directed to shut up and abate such place, and the owner or keeper thereof shall, upon conviction, be adjudged guilty of maintaining a common nuisance, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than sixty days nor more than ninety days, or both by such fine and imprisonment.

SEC. 14. Every person who shall, by the sale, barter, or gift of intoxicating liquors cause the intoxication of any other person or persons shall be liable for, and compelled to pay, a reasonable compensation to any person who may take charge of, and provide for, such intoxicated person, and five dollars per day in addition thereto for every day such intoxicated person shall be kept in consequence of such intoxication, to be recovered by civil action in any court having jurisdiction.

SEC. 15. Every wife, child, parent, guardian, employer, or other person who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of intoxication, habitual or otherwise, of any person, such wife, child, parent, or guardian shall have a right of action, in his or her own name, against any person who shall, by selling, bartering, or giving intoxicating liquors, have caused the intoxication of such person for all damages actually sustained, as well as for exemplary damages; and a married woman shall have the right to bring suits, prosecute and control the same, and the amount recovered, the same as if unmarried; and all damages recovered by a minor under this act shall be paid either to such minor, or to his or her parents, guardian, or next friend, as the court shall direct; and all suits for damages under this act shall be by civil action in any of the courts of this State having jurisdiction thereof.

SEC. 16. Every person who shall, directly or indirectly, keep or maintain, by himself or by associating or combining with others, or who shall in any manner aid, assist, or abet in keeping or maintaining, any club-room or other place in which any intoxicating liquor is

received or kept for the purpose of use, gift, barter, or sale as a beverage, or for distribution or division among the members of any club or association by any means whatever, and every person who shall use, barter, sell, or give away, or assist or abet another in bartering, selling, or giving away, any intoxicating liquors so received or kept, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.

SEC. 17. The giving away of intoxicating liquor, or any shifts or device to evade the provisions of this act, shall be deemed an unlawful selling within the provisions of this act.

SEC. 18. All fines and costs assessed against any person or persons for any violation of this act shall be a lien upon the real estate of such person or persons until paid ; and in case any person or persons shall let or lease any building or premises, and shall knowingly suffer the same to be used or occupied for the sale of intoxicating liquor contrary to the provisions of this act, the premises so leased and occupied shall be subject to a lien for, and may be sold to pay, all fines and costs assessed against any such occupant for any violation of this act; and such liens may be enforced by civil action in any court having jurisdiction : *Provided*, That the person against whom such fines and costs are assessed shall be committed to the jail of the county until such fines and costs are paid.

SEC. 19. It shall be unlawful for any person to get intoxicated, and every person found in a state of intoxication shall, upon conviction thereof before any justice of the peace, be fined in the sum of five dollars, or be imprisoned in the county jail not exceeding ten days.

SEC. 20. Whenever application is made to the probate judge for a permit to manufacture or to sell intoxicating liquors, under the provisions of this act, he shall notify the county attorney thereof, and thereupon such county attorney shall appear and advise with said probate judge with reference to the issuance of said permit and the approval of the bond. No person who shall inform of offences under this act, or make complaint therefor, shall be liable for the costs incurred in such prosecution, unless the court or jury trying the case shall find and determine that such prosecution was malicious and without probable cause.

SEC. 21. In all prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind of liquor manufactured or sold, but shall be necessary to describe the place where sold, and it shall not be necessary to state the name of the person to whom sold;

and in all cases the person or persons to whom such intoxicating liquors shall be sold in violation of this act shall be competent witnesses to prove such fact, or any other fact tending thereto. And the members, shareholders, or associates in any club or association mentioned in section 16 of this act shall be competent witnesses to prove any violation of the provisions of said section, or of this act, or of any fact tending thereto.

SEC. 22. It shall be and is hereby made the duty of all courts of this State before whom a grand jury is summoned to charge such grand jury especially concerning this act, and direct said jury to enquire particularly of all violations of any of its provisions.

SEC. 23. Chapter 35 of the General Statutes of 1868, and all acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 24. This act shall be immediately published in the official State paper, and take effect and be in force from and after the first day of May, A.D. 1881.

CONSTITUTIONAL AMENDMENT.

The following is the text of the Kansas constitutional amendment:

"Proposition—Article 15 shall be amended, by adding section 10 thereto, which shall read as follows: 'The manufacture and sale of intoxicating liquors shall be for ever prohibited in this State, except for medical, scientific, and mechanical purposes.'"

$5000 Dem. May

MISSOURI.

THE following dramshop law, with amendments of 1883, embraces the principal points of the liquor laws of the State of Missouri:

Be it enacted by the General Assembly of the State of Missouri as follows:

SECTION 1. That section five thousand four hundred and thirty-eight of chapter 98 of the Revised Statutes of the State of Missouri, entitled "Of Dramshops," be and the same is hereby amended by adding the word "specifically" between the words "state" and "where," in the third line of said section, and by adding thereto, at the end of said section, the words "*Provided, however*, That if the court shall be of the opinion that the applicant is a person of good character, and the petition required in section five thousand four hundred and forty-two of this chapter contains the proper names subscribed thereto of two-thirds of the assessed tax-paying citizens, as shown by the last previous annual assessment of the city, incorporated town, or municipal township where such dramshop is to be kept, then the court shall grant such license," so that said section, as amended, will read as follows: Section 5438. Applications for a license as a dramshop-keeper shall be made in writing to the county court, and shall state, specifically, where the dramshop is to be kept, and if the court shall be of opinion that the applicant is a person of good character, the court may grant a license for six months: *Provided, however*, That if the court shall be of the opinion that the applicant is a person of good character, and the petition required in section five thousand four hundred and forty-two of this chapter contains the proper names subscribed thereto of two-thirds of the assessed tax-paying citizens as shown by the last previous annual assessment of the city, incorporated town, or municipal township where such dramshop is to be kept, then the court shall grant such license.

SEC. 2. That section 5440 of said chapter be amended by striking out the word "one," in the third line of said section, and inserting in lieu thereof the word "two"; and further amended by adding the following words at the end of said section, to wit: "and conditioned that he will not violate any of the provisions of this chapter, and that

he will pay all fines, penalties, and forfeitures which may be adjudged against him under the provisions of this chapter," so that said section, when amended, shall read as follows: Section 5440. Before such license shall be granted the court shall require of the person applying for it a bond, to be given to the county, in the sum of two thousand dollars, with two or more sureties to be approved by the court, conditioned that the person obtaining such license shall keep at all times an orderly house, and that he will not sell, give away, or otherwise dispose of or suffer the same to be done about his premises, any intoxicating liquor, in any quantity, to any minor, without the consent of the parent, master, or guardian of such minor, and conditioned that he will not violate any of the provisions of this chapter, and that he will pay all fines, penalties, and forfeitures which may be adjudged against him under the provisions of this chapter.

SEC. 3. That section 5441 of said chapter be and the same is hereby amended by adding between the words "purposes" and "for," in the third line of said section, the words "not less than two hundred and fifty nor more than four hundred dollars for county purposes"; also amended by striking out the words "or clerk," in the fourth line of said section, so that said section, as amended, will read as follows: Section 5441. Upon every such license there shall be levied a tax not less than twenty-five nor more than two hundred dollars for State purposes, not less than two hundred and fifty nor more than four hundred dollars for county purposes, for every period of six months; the amount of tax in every instance to be determined by the court granting the license.

SEC. 4. That section 5442 of said chapter be and the same is hereby amended by striking out, in the first and second lines of said section, the words "after the fourth day of July, eighteen hundred and sixty-six," and by inserting between the words "city" and "or," in the fourth line of said section, the words "containing five thousand inhabitants or more," and by inserting between the words "such city," in the fourth line, and the word "incorporated," in the fourth and fifth lines of the same, the words "nor in any city containing less than five thousand inhabitants nor in any," so that said section, as amended, shall read as follows: Section 5442. It shall not be lawful for any county court in this State, or clerk thereof in vacation, to grant any license to keep a dramshop in any town or city containing two thousand five hundred inhabitants or more, until a majority of the assessed tax-paying citizens in the block or square in which the dramshop is to be kept shall sign a petition, asking for such license to keep a dramshop in such block or square in such town or city; nor in any city containing less than two thousand five hundred inhabitants, nor in any incorporated town or municipal township,

until a majority, both of the assessed tax-paying citizens therein and in the block or square in which the dramshop is to be kept shall sign a petition asking for such license to keep a dramshop therein, which said petition shall be filed in the office of the clerk of the county court, and by said clerk laid before the court at the first term thereafter, and be renewed on the fourth day of July every year thereafter ; and in default of renewing of said petition, said court or clerk shall have no power to issue such license thereafter until the same is renewed. Every person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction on indictment be punished by fine not less than fifty nor more than five hundred dollars, for the use of the county school fund ; and all dramshop licenses issued contrary to the provisions of this section shall be void.

SEC. 5. That section 5456 of said chapter be amended by adding after the word "Sunday," in the fifth line of said section, the following, "or upon the day of any general election in this State," and by adding after the word "thereof," in the fifth line of said section, "be punished by fine of not less than fifty nor more than two hundred dollars," and by striking out, in the fifth and sixth lines of said section, the words "in addition to the penalties now provided by law," and substituting in lieu thereof the word "shall," so that said section, as amended, will read as follows : Section 5456. Any person having a license as a dramshop-keeper who shall keep open such dramshop, or shall sell, give away, or otherwise dispose of or suffer the same to be done upon or about his premises, any intoxicating liquors, in any quantity, on the first day of the week, commonly called Sunday, or upon the day of any general election in this State, shall, upon conviction thereof, be punished by fine not less than fifty nor more than two hundred dollars, shall forfeit such license, and shall not again be allowed to obtain a license to keep a dramshop for the term of two years next thereafter.

SEC. 6. Section 5462 of chapter 98 of the Revised Statutes of Missouri, in words and figures as follows, to wit : Section 5462. [*Selling to habitual drunkards.*]—Any dramshop-keeper, druggist, or merchant selling, giving away, or otherwise disposing of any intoxicating liquors to any habitual drunkard, after such dramshop-keeper, druggist, or merchant shall have been notified by the wife, father, mother, brother, sister, or guardian of such person not to sell, give away, or furnish to such person any intoxicating liquors, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty nor more than two hundred dollars, and, upon conviction under the provisions of this section of any dramshop-keeper, it shall work a forfeiture of his license to keep a dramshop, and also debar him from again obtaining a license for

that purpose. A notice, given under this section, shall be deemed a continuing notice as to the person notified [Laws of 1874, p 49, § 2–9]—and the same is hereby repealed, and the following new section enacted in lieu thereof: Section 5462. Any dramshop-keeper, druggist, or merchant selling, giving away, or otherwise disposing of or suffering the same to be done about his premises, any intoxicating liquors to any habitual drunkard, after such dramshop-keeper, druggist, or merchant shall have been notified by the wife, father, mother, brother, sister, child, or guardian of such person not to sell, give away, or furnish to such person any intoxicating liquors, shall forfeit and pay to such wife, father, mother, brother, sister, child, or guardian, for every such offence, a sum not less than fifty nor more than five hundred dollars, to be recovered by the party entitled to sue by civil action in any court having competent jurisdiction, against such dramshop-keeper, or by suit in such court in the name of the county to the use of the person entitled to sue on such bond, or a duly authenticated copy thereof, against such dramshop-keeper and his sureties, jointly or severally, and, in addition to the penalties herein provided, shall forfeit his license as a dramshop-keeper and be debarred from again obtaining license for that purpose: *Provided, however,* That any married woman, for the purpose of recovering the penalties and forfeitures provided for in this chapter, may sue as a *femme sole.* A notice, given under this section, shall be deemed a continuing notice as to the person notified.

SEC. 7. Section 5464 of said chapter is hereby amended by adding thereto, and at the end thereof, the words "nor shall it be construed as authorizing a license to be collected from any person selling cider in any quantity," so that said section as amended shall read as follows: Section 5464. No person not having a license as a dramshop-keeper shall directly or indirectly sell beer, cider, and native wine, the latter the growth and manufacture of this State, in less quantity than one gallon, without taking out a license as a wine and beer-house keeper: *Provided, however,* That this section shall not be construed as authorizing a license to be levied upon and collected from any wine-grower for selling wine of his own production in any quantity on his own premises, nor shall it be construed as authorizing a license to be levied upon and collected from any person selling or manufacturing cider in any quantity.

SEC. 8. All acts and parts of acts inconsistent with this act are, as far as inconsistent, hereby repealed.

Approved March 24, 1883.

N. B. This act takes effect July 1, 1883.

Rep- 30 Petitioners
$500 License

NEBRASKA.

THE following is the "high license law" adopted February, 1881:

Be it enacted by the Legislature of the State of Nebraska:

SECTION 1. The county board of each county may grant license for the sale of malt, spirituous, and vinous liquors, if deemed expedient, upon the application by petition of thirty of the resident freeholders of the town, if the county is under township organization, and if not under township organization, then thirty of the resident freeholders of the precinct where the sale of such liquors is proposed to take place, setting forth that the applicant is a man of respectable character and standing and a resident of this State, and praying that license may be issued to him. Such application to be filed in the office of the county clerk, and upon the payment into the county treasury of such sum as the board may require, not less than five hundred ($500) dollars for each license, and upon the compliance with the provisions of this: *Provided* such board shall not have power to issue any license for the sale of any liquors in any city or incorporated village or within two miles of the same.

SEC. 2. No action shall be taken upon said application until at least two weeks' notice of the filing of the same has been given by publication in a newspaper published in said county, by posting written or printed notices of said application in five of the most public places in the town, precinct, village, or city in which the business is to be conducted, when, if there be no objections in writing made and filed to the issuance of said license, and the county board is in session, and all other provisions of this chapter have been fully complied with, it may be granted.

SEC. 3. If there be any objection, protest, or remonstrance filed in the office where the application is made against the issuance of said license, the county board shall appoint a day for hearing of said case, and if it shall be satisfactorily proven that the applicant for license has been guilty of the violation of any of the provisions of this act within the space of one year, or if any former license shall have been revoked for any misdemeanor against the laws of this State, then the board shall refuse to issue such license.

SEC. 4. On hearing of any case arising under the provisions of the last two sections any party interested shall have process to compel the

attendance of witnesses, who shall have the same compensation as now provided by law in the district court, to be paid by the party calling the witnesses. The testimony on said hearing shall be reduced to writing and filed in the office of application, and if any party feels himself aggrieved by the decision in said case he may appeal therefrom to the district court, and said testimony shall be transmitted to said district court, and such appeal shall be decided by the judge of such court upon said evidence alone.

SEC. 5. That license shall state the time for which it is granted, which shall not exceed one year, the place where the liquor is to be sold, and shall not be transferable; and any license granted under this chapter may be revoked by the authority issuing the same whenever the person licensed shall, upon due proof made, be convicted of a violation of any of the provisions of this act. The license shall be in the following form, as near as practicable:

STATE OF NEBRASKA, COUNTY OF ———, *ss.*

To all who shall see these presents:

Know ye that————, having on the——day of——, A.D. 18—, filed his petition and bond according to law, and paid into the treasury the sum imposed on him as a vender of malt, spirituous, and vinous liquors; therefore the said————is hereby authorized to sell malt, spirituous, and vinous liquors at——for——months, ending the——day of——, A.D. 18—.

In testimony whereof I,———, clerk of———, have affixed the seal of said———this——day of——, A.D. 18—.

[SEAL.] ———, Clerk.

SEC. 6. No person shall be licensed to sell malt, spirituous, or vinous liquors by any county board or the authorities of any city or village unless he shall first give bond in the penal sum of five thousand ($5,000) dollars, payable to the State of Nebraska, with at least two good and sufficient securities, freeholders of the county in which the license is to be granted, to be approved by the board who may be authorized to issue the license, conditioned that he will not violate any of the provisions of this act. The board taking such bond may examine any person offered as security upon any such bond, under oath, and require him to subscribe and swear to his statements in regard to his pecuniary ability to become such security. Any bond taken pursuant to this section may be sued upon for the use of any person, or his legal representatives, who may be injured by reason of the selling or giving away of any intoxicating liquor by the person so licensed, or by his agent or servant.

SEC. 7. No person who is holden as the principal or surety upon

any bond given under the provisions of the preceding section shall be permitted to become surety upon any other bond of like character.

SEC. 8. Every person licensed as herein provided who shall give or sell any malt, spirituous, or vinous liquors, or any intoxicating drinks, to any minor, apprentice, or servant under twenty-one years of age, shall forfeit and pay for each offence the sum of twenty-five dollars.

SEC. 9. Any minor, apprentice, or servant who shall, for the purpose of evading the provisions of the preceding section, falsely represent his age shall be deemed guilty of a misdemeanor, and fined for each and every offence not exceeding twenty dollars, or imprisoned in the county jail not exceeding thirty days, or both, at the discretion of the court.

SEC. 10. Every person so licensed who shall sell any intoxicating liquors to any Indian, insane person, or idiot, or habitual drunkard shall forfeit and pay for each offence the sum of fifty dollars.

SEC. 11. All persons who shall sell or give, upon any pretext, malt, spirituous, or vinous, or any intoxicating drinks, without having first complied with the provisions of this act, and obtained a license as herein set forth, shall for each offence be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars, nor more than five hundred dollars, or to be imprisoned not to exceed one month in the county jail, and shall be liable in all respects to the public and individuals the same as he would have been had he given bonds and obtained license as herein provided.

SEC. 12. The magistrate before whom any complaint is made of a violation of the provisions of the pending section shall issue a warrant for the arrest of the offender, and if upon an examination the magistrate shall have reason to believe the party guilty, he shall recognize him to appear at the next term of the district court the same as in case of felony.

SEC. 13. Every person so licensed, or any person who shall, intentionally or otherwise, sell or give away, or direct or permit any person or persons in his employ to sell or give away, any malt, spirituous, or vinous liquor which shall be adulterated with strychnine, strontia, sugar of lead, or any other substance, shall forfeit and pay the sum of one hundred dollars for every such offence. An analysis made by a practical chemist shall be deemed competent testimony under the provisions of this section.

SEC. 14. Every person who shall sell or give away any malt, spirituous, or vinous liquors on the day of any general or special election, or at any time during the first day of the week, commonly called

Sunday, shall forfeit and pay for every such offence the sum of one hundred dollars.

SEC. 15. The person so licensed shall pay all damages that the community or individuals may sustain in consequence of such traffic; he shall support all paupers, widows, and orphans, and the expenses of all civil and criminal prosecutions growing out of or justly attributed to his traffic in intoxicating drinks; said damages and expenses to be recovered in any court of competent jurisdiction by any civil action on the bond named and required in section 6 of this act, a copy of which, properly authenticated, shall be taken in evidence in any court of justice in this State; and it shall be the duty of the proper clerk to deliver, on demand, such copy to any person who may claim to be injured by such traffic.

SEC. 16. It shall be lawful for any married woman, or any other person at her request, to institute and maintain, in her own name, a suit on any such bond for all damages sustained by herself and children on account of such traffic, and the money when collected shall be paid over for the use of herself and children.

SEC. 17. When any person shall become a county or city charge by reason of intemperance, a suit may be instituted by the proper authorities on the bond of any persons licensed under this act who may have been in the habit of selling or giving intoxicating liquors to the person so becoming a charge: *Provided*, That the person against whom a judgment may be rendered under the provisions hereof may recover by a similar action a proportionate part of said judgment from any and all persons engaged in said traffic who have sold or given liquor to such person committing an offence.

SEC. 18. On the trial of any suit under the provisions hereof the cause or foundation of which shall be the acts done or injuries inflicted by a person under the influence of liquor, it shall only be necessary to sustain the action to prove that the defendant or defendants sold or gave liquor to the person so intoxicated, or under the influence of liquor, whose acts or injuries are complained of on that day, or about that time, when said acts were committed or said injuries received; and in an action for damages brought by a married woman, or other person whose support legally devolves upon a person disqualified by intemperance from earning the same, it shall only be necessary to prove that the defendant has given or sold intoxicating drinks to such person during the period of such disqualification.

SEC. 19. All suits for damages and expenses arising under this act may be commenced and prosecuted before a justice of the peace, where the damages claimed do not exceed the jurisdiction of said jus-

tice, although the penalty in the bond may exceed that amount, and the judgment shall be for the damages proved.

SEC. 23. All fines and penalties so recovered under the provisions of the act shall, when collected, be paid into the proper treasury for the use of the school fund, and the corporate authorities by whom such license was issued shall pay to the complaining witness in such action, out of the general fund of the county or city, an amount equal to one-fourth of the sum actually collected and paid over to the school fund as aforesaid.

SEC. 24. The county board, under the restrictions in section one (1) of this act, may grant permits to druggists to sell liquors for medicinal, mechanical, and chemical purposes upon a compliance with all the provisions hereinbefore contained, and subject to all the requirements and penalties contained in this act, except that no license fee shall be required except the cost of issuing said permit.

SEC. 25. The corporate authorities of all cities and villages shall have power to license, regulate, and prohibit the selling or giving away of any intoxicating, malt, spirituous, or vinous mixed or fermented liquors within the limits of such city or village, the license not to extend beyond the municipal year in which it shall be granted, and to determine the amount to be paid for such license—not less than five hundred ($500) dollars in villages and in cities of less than ten thousand inhabitants, not less than one thousand ($1,000) dollars in cities of more than ten thousand inhabitants: *Provided*, That the city council in cities, or board of trustees in villages, may grant permits to druggists for the sale of liquor for medicinal, mechanical, and chemical purposes only, subject to forfeiture, and under such restrictions and regulations as may be provided by ordinance, and subject to the provisions of section 26 of this act: *Provided further*, That in granting licenses or permits such corporate authorities shall comply with and be governed by all the provisions and penalties contained in this act, and the same shall be applicable to such licenses and the person to whom they are granted: *Provided also*, That in granting any license the petition therefor shall be sufficient if signed by thirty of the resident freeholders, or, if these are less than sixty, a majority of the freeholders of the ward or village where the sale of such liquors is to take place.

SEC. 26. Any druggist to whom a permit may be granted, as contemplated in sections 24 and 25 of this act, shall keep in a book provided by him for that purpose a register of all liquors sold or given away by him, which register shall show the dates, kind, quantity, for what purpose, and to whom such liquor was sold or given away, which book shall be at all times open to the inspection of the public. All

druggists to whom such permits may be granted shall on the first Monday of January and July of each year file in the office of the clerk of the authorities granting such permits a report of all entries made in such register as contemplated in this section since his last report, which shall be subscribed and sworn to as correct by said druggist, and that he has not sold or given away, either by himself, clerk, or agent, any liquors other than stated in said report. Any druggist failing to comply with the provisions of this section shall be deemed guilty of misdemeanor, and, upon conviction thereof, for each and every offence shall be fined in any sum not less than twenty ($20) dollars nor more than one hundred ($100) dollars, and be imprisoned in the county jail not less than ten days nor more than thirty days, in the discretion of the court.

SEC. 27. If any one purchasing intoxicating liquors of a person authorized to sell shall make to such person any false statement regarding the use to which such liquor is intended by the purchaser to be applied, such person so obtaining such liquor shall be deemed guilty of misdemeanor, and shall, upon conviction thereof, forfeit and pay a fine of ten dollars, together with costs of prosecution, or shall stand committed until the same is paid. For the second offence he shall pay a fine of twenty dollars, and costs of prosecution, and be imprisoned in the county jail not less than ten nor more than thirty days.

SEC. 28. If any person shall be found in a state of intoxication he shall be deemed guilty of misdemeanor, and any peace officer may, without warrant, and it is hereby made his duty to, take such person into custody, and detain him in some suitable place till an information can be made before a magistrate and a warrant issued in due form, upon which he may be arrested and tried, and, if found guilty, he shall pay a fine of ten dollars and costs of prosecution, or shall be imprisoned in the county jail not more than thirty days. But the magistrate before whom such person is tried and convicted may remit any portion of such penalty, and order the prisoner to be discharged upon his giving information under oath, stating when, where, and of whom he purchased or received the liquor which produced the intoxication, and the name and character of the liquor obtained. In cases arising under this section appeals may be allowed as in cases of ordinary misdemeanor within the jurisdiction of the justice of the peace.

SEC. 29. It shall be the duty of all venders of malt, spirituous, or vinous liquors under the provisions of this act to keep the windows and doors of their respective places of business unobstructed by screens, blinds, paint, or other articles, and any person offending

against the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty dollars, or be imprisoned in the county jail not less than ten days, or both, at the discretion of the court, and shall have his license revoked by the same authority granting the same.

SEC. 30. That chapter 53 of the Code of Criminal Procedure of the General Statutes, 1873, entitled "License and Sale of Liquor," and an act entitled "An act to amend section 575 of chapter 58 of Criminal Code," approved February 9, 1873, and an act entitled "An act to regulate the issuance of license for, and the sale of, malt, vinous, and spirituous liquors in the State of Nebraska," approved February 25, 1875, be, and the same are hereby, repealed.

OTHER STATES.

WISCONSIN.

Wisconsin, in place of the more stringent so-called "Graham" law, has a license law of twenty-four sections, approved March 9, 1874. The board of supervisors of the several towns, and the aldermen of any incorporated city, and the board of trustees of any incorporated village, are constituted the licensing authorities, who may grant licenses to as many persons as they "may deem proper." A bond of $500 is required as a guarantee of compliance with the restrictive provisions of the law. Penalties are provided for the sale of liquor without license. Liquors may not be sold or given away to "spendthrifts" or minors, and parties injured in consequence of the sale of liquors may sue for damages. Drunkenness is punished by a fine not exceeding $10 and costs, and imprisonment not exceeding five days, or both. All places where intoxicating liquors are sold in violation of law shall be shut up and abated as public nuisances.

1900 Dem, Local option

ARKANSAS.

ARKANSAS has a local-option license law entitled "An Act to Regulate the licensing of Dram-shops, and for other Purposes," of ten sections, approved May 30, 1874. It is as follows:

Be it enacted by the General Assembly of the State of Arkansas:

SECTION 1. That hereafter there shall be an election held in each township, ward of a city, and incorporated town of this State on Tuesday after the first Monday in November in each year, at which election there shall be submitted to the qualified electors of said township, ward of a city, or incorporated town the question whether licenses shall be granted by the board of supervisors of each county to any person to keep a drinking-saloon or dram-shop, for the sale of ardent, vinous, or fermented liquors, for sale in quantities less than one quart.

SEC. 2. That at such election each elector shall have written or printed on his ballot the words "For license" or "Against license."

SEC. 3. That said election shall be held by the same officers and at the same time and in the manner as other elections, and the returns thereof sealed up and forwarded to the county clerk of the proper county, and by him laid before the board of supervisors at the next term thereof, held more than ten days next thereafter; and if it shall appear that a majority of the votes cast in each township, ward of a city, or incorporated town be cast for license, then it shall be lawful for such board of supervisors to grant licenses in such townships, to continue in force for one year next thereafter, subject to the restrictions hereinafter set forth.

SEC. 4. That if at any such election the majority of the votes of any township, ward of a city, or incorporated town should be cast against license, then it shall not be lawful for the board of supervisors to grant license to any person to keep a drinking-saloon or dram-shop in any such township, ward of a city, or incorporated town for the space of one year after such election.

SEC. 5. That each applicant for a license under this act shall present his petition to the board of supervisors of the proper county, setting forth the place where such drinking-saloon or dram-shop is to be kept, and shall enter into bond to the State of Arkansas in

the penal sum of two thousand dollars, conditioned that such applicant will pay all damages that may be occasioned by reason of liquors drank at his house; and shall further pay to any person all such sums of money as may be lost at gaming in his said saloon or dram-shop, or any room or building thereto attached, with two good sureties to be approved by said board of supervisors.

SEC. 6. That before any license shall be granted under this act the applicant therefor shall pay to the proper officers all fees, licenses, costs, or taxes that may be levied by any proper authority, and shall produce the receipt therefor to the county clerk of said county to be filed in his office.

SEC. 7. That the county clerk shall keep a record in his office of all licenses granted and fees and costs paid therefor, together with the bonds filed by the applicant.

SEC. 8. That any person aggrieved by the keeping of said drinking-saloon or dram-shop, or who may have lost any money or other valuable thing at gaming in said dram-shop, or house, or room thereto attached, may have an action on said bond against the principal and sureties.

SEC. 9. That any person that shall keep a drinking-saloon or dram-shop without procuring a license as provided by this act shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than one hundred dollars and imprisoned in the county jail not less than thirty days.

SEC. 10. That all laws in conflict herewith be repealed, and that the first election be held under this act on Tuesday after the first Monday in November, eighteen hundred and seventy-four (1874).

Approved May 30, 1874.

IOWA.

Iowa has a prohibitory law of thirty-six sections. The manufacture and sale of intoxicating liquors is prohibited, except for "mechanical, medicinal, culinary, or sacramental purposes"; except also foreign importations of such liquors under the authority of the laws of the United States; except also the manufacture and sale of beer, cider from apples, wine from grapes, currants, or other fruits grown in the State. Violations of the law either in manufacturing or selling intoxicating liquors are punished by fines varying from twenty to two hundred dollars, and by imprisonment from ten days to six months. Common carriers are liable for bringing liquors into the State except upon a proper certificate, penalties are prescribed for evasions of the law, and there is a civil damage proviso for injuries resulting from the illegal sale of intoxicating liquors. Hotel-keepers, keepers of saloons, eating-houses, grocery keepers, and confectioners are not allowed to sell intoxicating liquors under any circumstances. Only such persons can sell for "mechanical, medicinal, culinary, and sacramental purposes" as first obtain permission from the board of supervisors of the county in which the business is to be conducted, and upon the certificates of a majority of the legal electors of the town, township, or ward. A bond of three thousand dollars with two or more sureties, who shall justify in double the amount of said bond, is required of every applicant to whom a permit is thus granted.

MINNESOTA.

Minnesota has a license law of the general character of those in force in other States. As amended in 1872, it provides that no licensed vender of intoxicating liquors shall "sell, barter, furnish, nor give away such liquors to

any minor person, pupil, or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person or habitual drunkard." Penalties are provided for violations and evasions of the law, and all keepers of drug-stores, dispensaries, apothecary-shops, or other business houses in any manner dealing in spirituous, vinous, or malt liquors, for whatever purpose, are subjected to all the conditions, liabilities, and penalties prescribed for and imposed upon other persons.

WEST VIRGINIA.

West Virginia has a license law of ten sections, enacted in 1872–3. It makes unlawful the retail sale of intoxicating liquors without license; provides that it "shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors behind screen, 'frosted' windows, or any other device designed or intended to protect the seller or buyer from public observation"; prohibits the sale of liquor to minors, or to persons intoxicated or in the habit of getting intoxicated; makes the vender of intoxicating liquor responsible for the care and maintenance of those whose intoxication he may have occasioned, and provides also for the collection of damages by the families and friends of drunkards. Owners of property used for the sale of liquors are made responsible, with the venders, for the consequences of the traffic. Penalties are provided for violations and evasions of the law.

MISSISSIPPI.

Mississippi has a general license law of seventeen sections, approved May 13, 1871.

The corporate authorities of cities and towns, and boards of supervisors in counties, are empowered to grant annual licenses, at rates of from two hundred to one thousand dollars, according to locality, "the sums received for such licenses to be for the use of the common school fund." Petitions for license must recommend the applicant to be "of good reputation, and a sober and suitable person to receive such a license," and be signed by a majority of the legal voters of the supervisor's district, city, or town wherein the liquors are to be sold. Bonds of $1,000 are required. Druggists and physicians may sell in less quantity than one gallon, if they file an affidavit in the office of the chancery clerk of the county that they will "only sell vinous or spiritous liquors for medicinal, culinary, or sacramental purposes." Debts contracted for liquors sold at retail are made invalid. The sale of liquors on Sunday is prohibited.

An act was passed February 8, 1876, repealing the proviso which required the signatures of the majority of the women of a given district before licenses could be granted. By special acts of the Legislature, the sale of intoxicating liquors is prohibited within one, two, three, or five miles of several towns, and wholly in sundry other townships.

PROHIBITION CONSTITUTIONAL.

THE following extracts are from the records of the Supreme Court:

Chief Justice Taney said: "If any State deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating or restraining the traffic, or from prohibiting it altogether, if it thinks proper."—[5 Howard, 577.]

Hon. Justice McLean said: "A license to sell is a matter of police and revenue within the power of the State."—[5 Ibid., 589.] "If the foreign article be injurious to the health and morals of the community, a State may prohibit the sale of it."—[Ibid., 595.] Again he says: "No one can claim a license to retail spirits as a matter of right."—[Ibid., 596.]

Hon. Justice Carton said: "If the State has the power of restraint by license to any extent, she may go to the length of prohibiting sales altogether."—[5 Ibid., 611.]

Hon. Justice Daniels said of imports when cleared of all duty and subject to the owner: "They are like all other property of the citizens, and should be equally the subjects of domestic regulation and taxation, whether owned by an importer or his vender."—[5 Ibid., 614.]

In reply to the argument that the importer purchases the right to sell when he pays duties to the government, the Judge says: "No such right as the one supposed is purchased by the importer. He has not purchased and cannot purchase from the government, that which could not ensure to him a sale independent of the law and policy of the States."—[Ibid., 617.]

Hon. Justice Grier said: "It is not necessary to array the appalling statistics of misery, pauperism, and crime, which have their origin in the use and abuse of ardent spirits. The police power, which is exclusively in the State, is competent to the correction of these great evils and all measures of restraint or prohibition

necessary to effect that purpose are within the scope of that authority, and if a loss of revenue should accrue to the United States from a diminished consumption of ardent spirits, she will be a gainer a thousand-fold in the health, wealth, and happiness of the people."—[Ibid., 582.]

SCHOOL LAWS OF THE UNITED STATES.

VERMONT.

No. 20. An Act relating to the Study of Physiology and Hygiene in the Public Schools.

It is hereby enacted, etc.:

Section 1. Section 558, chapter 33, of the revised laws is hereby amended so as to read as follows: One or more schools shall be maintained in each town for the instruction of the young in good behavior, reading, writing, spelling, English grammar, geography, arithmetic, free-hand drawing, history, and constitution of the United States, and elementary physiology and hygiene which shall give special prominence to the effects of stimulants and narcotics upon the human system, and special instruction shall be given in the geography and history, constitution, and principles of government of Vermont. Text-book committees shall select and recommend a text-book on elementary physiology and hygiene for use in their respective towns.

Sec. 2. No teacher shall be required to pass an examination in physiology and hygiene before November 1, 1883.

Approved November 13, 1882.

CONNECTICUT.

The following law was adopted by the Legislature of the State of Connecticut, March, 1882:

Chapter XVIII.

An Act concerning Instruction in Public Schools.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. If in any town twelve persons of adult years shall petition the Board of School Visitors to order instruction in the public schools concerning the effects of intoxicating beverages on individuals and on the community, the Board of School Visitors shall consider

this petition, and by a formal vote decide whether or not to grant its request.

SEC. 2. If any persons feel aggrieved by the decision thus made by the Board of School Visitors, then, upon the petition of twenty legal voters of the town, the question shall be submitted to the next annual town meeting, which shall have power to finally decide it for one year.

Approved March 15, 1882.

MICHIGAN.

[No. 93.]

AN ACT to amend section 15 of chapter 3, and section 4 of chapter 12, of an act entitled "An act to revise and consolidate the laws relating to public instruction and primary schools, and to repeal all statutes and acts contravening the provisions of this act," being act No. 164 of session laws of 1881.

SECTION 1. *The People of the State of Michigan enact*, That section 15 of chapter 3, and section 4 of chapter 12, of an act entitled "An act to revise and consolidate the laws relating to public instruction and primary schools, and to repeal all statutes and acts contravening the provisions of this act," being act No. 164 of session laws of 1881, be amended so as to read as follows:

CHAPTER III.

SECTION 15. The district board shall specify the studies to be pursued in the schools of the district: *Provided always*, That provision shall be made for instructing all pupils in every school in physiology and hygiene, with *special reference to the effects of alcoholic drinks, stimulants, and narcotics generally, upon the human system: Provided further*, That the text-books used in giving the foregoing instruction shall have received the joint approval of the State Board of Education and State Board of Health. The said district board shall prescribe the text-books to be used, which shall be uniform in each subject that may be taught; but text-books once adopted, under the provisions of this act, shall not be changed within five years, except by the consent of a majority of the qualified voters of the district present at an annual meeting. Each school board making a selection of text-books under this act shall make a record thereof in their proceedings.

CHAPTER XII.

SECTION 4. The Board of School Examiners shall grant certificates to teachers, in such form as the Superintendent of Public Instruction shall prescribe, licensing as teachers all persons who, on thorough and full examination, shall be found qualified in respect to good moral character, learning, and ability to instruct and govern a school; but no certificate shall be granted to any person who shall not pass a satisfactory examination in orthography, reading, writing, grammar, geography, arithmetic, theory and art of teaching, United States history, and civil government, and after September 1, 1884, in physiology and hygiene, with particular reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system. All certificates shall be signed by the secretary and chairman of said board. No person shall be considered a qualified teacher, within the meaning of the school law, or shall any school officer employ or contract with any person to teach in any of the public schools, who has not a certificate in force, granted by the Board of School Examiners of the county, or other lawful authority. *Provided*, That the certificates heretofore granted by the township superintendents of schools shall be valid for the time for which they were given, unless sooner suspended or revoked by the Board of School Examiners. *Provided also*, That the several chairmen of township boards of school inspectors may examine and license teachers for their respective townships until the county school examiners are duly elected and qualified; but no certificate hereafter granted by a chairman of a township board of school inspectors shall be valid beyond three months after the board of school examiners has been duly elected, qualified, and organized in the county.

Approved May 16, 1883.

MINNESOTA.

AN ACT TO INTRODUCE MORAL AND SOCIAL SCIENCE IN THE PUBLIC SCHOOLS OF THIS STATE.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That all school officers in the State may introduce, as part of daily exercises of each school in their jurisdiction, instruction in the elements of social and moral science, including industry, order, economy, punctuality, patience, self-denial, health, purity, temperance, cleanliness, honesty, truth, justice, politeness, peace, fidelity,

philanthropy, patriotism, self-respect, hope, perseverance, cheerfulness, courage, self-reliance, gratitude, pity, mercy, kindness, conscience, reflection, and the will.

SEC. 2. That it may be the duty of the teachers to give a short oral lesson every day upon one of the topics mentioned in Section 1 of this act, and to require the pupils to furnish illustrations of the same upon the following morning.

SEC. 3. That emulation may be cherished between pupils in accumulating facts in regard to the noble traits possible, and in illustrating them by daily conduct.

SEC. 4. This act shall take effect and be in force from and after July 1, 1881.

Approved March 4, 1881.

NEW HAMPSHIRE.

AN ACT TO AMEND SECTIONS 4 AND 5 AND 10 OF CHAPTER 89 OF THE GENERAL LAWS.

Be it enacted by the Senate and House of Representatives in General Court convened:

SECTION 1. That section 4 of chapter 89 of the General Laws be and is so amended to read as follows: Teachers of common schools shall be examined in reading, spelling, writing, English grammar, arithmetic, geography, and the elements of history, and in physiology and hygiene, with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system, and in other branches usually taught in said schools.

SEC. 2. That section 5 of chapter 89 of the General Laws be and is so amended to read as follows: The school committee may prescribe for any school, where in their judgment it shall be proper, the study of surveying, geometry, algebra, book-keeping, philosophy, chemistry, and natural history, or any of them, and other suitable studies, and teachers proposing to teach in such schools shall be examined in those branches in addition to those required of other teachers.

SEC. 3. That section 10 of chapter 89 of the General Laws be and is so amended to read as follows: The school committee may prescribe suitable rules and regulations for the attendance on, management, studies, classification, and discipline of, the schools whenever they deem the same necessary, provided that physiology and hygiene, including special reference to the effects of alcoholic stimulants and

narcotics upon the human system, shall be prescribed in all schools sufficiently advanced; and said regulations and rules, being recorded by the town-clerk, and a copy thereof given to the teachers and read in the schools, shall be binding upon scholars and teachers.

SEC. 4. This act shall take effect from and after March 1, 1884.

Approved August 8, 1883.

Temperance Music and Song Books.

THE NATIONAL TEMPERANCE SOCIETY publish the following Music and Song Books, adapted to all Temperance Gatherings in the land:

Bugle Notes for the Temperance Army. Edited by W. F. Sherwin and J. N. Stearns. Price, paper covers, 30 c.; boards..... .35
Paper covers, per dozen, post paid, $3.40; board covers, $4.00.

A new collection of Songs, Quartets and Glees, adapted to the use of all Temperance gatherings, Glee Clubs, etc., together with the Odes of the Sons of Temperance and Good Templars. The words and music are nearly all new, written and composed expressly for this work. Several popular authors have contributed to give variety, and the standard Odes, so necessary in all our Societies, are included.

Temperance Chimes. Price, in paper, 30 c.; board covers..... .35
Paper covers, per dozen, post paid, 3.40; board covers, 4.00.

A new Temperance Hymn and Tune Book of 128 pages, comprising a great variety of new music, Glees, Songs and Hymns, designed for the use of Temperance Meetings and Organizations, Bands of Hope, Glee Clubs, and the Home Circle. Many of the hymns have been written expressly for this book, by some of the best writers in the country. The Odes of the Sons of Temperance and Good Templars are given in full, and set to appropriate music.

Ripples of Song. Price, paper covers, 15 c.; per dozen, 1.60.; per hundred..... **12.00**
Board covers, 20 c.; per dozen, 2.20; per hundred, 18.00.

The National Temperance Society have just published a new collection of sixty-four pages of Temperance Hymns and Songs, designed for children and youth in Sabbath-Schools, Bands of Hope, Juvenile Templars, Cadets of Temperance, Cold Water Templars, and other Juvenile Societies, containing 90 popular hymns set to appropriate music. The Odes and Music of the Juvenile Templars are given in full.

Temperance and Gospel Songs. 100 pages. Price in Board covers 30 cts.; per hundred..... **25.00**

The National Temperance Society has just published an edition of this new Song Book, which is fast gaining the popularity which its merits deserve. It is greatly in advance of the temperance song books of the day, and adds much to the interest of temperance meetings wherever used. The words and music are mostly new, from the hands of our best authors.

The book contains a good assortment of rousing congregational pieces, which are easily learned and popular, together with a large number especially adapted to choir and quartette use, also a few anthems and male quartettes.

The Temperance Evangel. 68 pages. By D. B. Forum, and Rev. S. W. Spencor. Price, paper covers, 25 cents; per doz., $2.50; board covers, 30 cents; per doz... **3.25**

A collection of new and popular music and words, suitable for Gospel Temperance meetings, and general Temperance Work, just the book for Temperance Camp-meetings and Conventions, and Society meetings, etc.

National Temperance Hymn and Song Book. 12mo, 64 pages. Paper, single copies, 10 cents; per hundred..... **10.00**

A new collection of hymns and songs, with words only, to old and familiar tunes, and adapted to all temperance gatherings, including Gospel Temperance meetings, Sons of Temperance and Good Templar organizations, Temperance Camp-meetings, Prohibition Clubs, open-air meetings, etc. It will contain about 150 first-class pieces, and will be the best collection of the kind ever issued.

Temperance Hymn-Book. Price, paper covers, 12 cts. each; per hundred, $10.00; Board covers, 15 cents each; per hundred..... **13.00**

Band of Hope Melodies. Paper..... .10
Containing fifty pages of Songs with Music, adapted to Bands of Hope, Juvenile Temperance Societies, etc.

Campaign Temperance Hymns. Per hundred..... 3.00
Thirty Hymns, 24 pages, for Temperance Singers everywhere.

Temperance Hymns. Price, on thick paper, per hundred..... 1.00
On card-board, per hundred..... 4.00
In sheet form, size 9½ by 7½ inches, containing Hymns suitable for Public Temperance gatherings and organizations.

The Little Bow of Blue...... .35
This is the title of a new Song and Chorus just published by The National Temperance Society, in sheet-music form. Words by Edward Carswell, the celebrated Temperance Orator.

Address **J. N. STEARNS, Publishing Agent,**
58 READE STREET, NEW YORK.

NEW TEMPERANCE TALES.

ONLY TEN CENTS EACH.

FIFE AND DRUM SERIES.

The NATIONAL TEMPERANCE SOCIETY has commenced the publication of a series of cheap and thrilling Temperance Tales, and from the pens of some of the best writers on Temperance in the world, giving a greater amount of valuable and interesting matter than ever before, for the small sum of 10 cents. The object is to supply a great amount of matter calculated to aid the advancement of the cause of Temperance, for a very small sum of money. The following have already been published.

FIFE AND DRUM.

By MARY DWINELL CHELLIS. 12mo, 79 Pages.

This is a new and thrilling story, with an excellent spirit and moral instruction, from the pen of this well-known and brilliant writer.

A TRAGEDY OF THE SEA.

By MRS. J. McNAIR WRIGHT. 12mo, 72 Pages.

One of the most thrilling Temperance Tales ever published, and worth ten times its price.

THE QUAKER'S RULE.

By ERNEST GILMORE. 12mo, 72 Pages.

This new work is fully equal to the other writings of this talented author, and is worthy of a place in every family.

DRINKING JACK and other Stories.

By MARY DWINELL CHELLIS. 12mo, 72 Pages.

This popular author has few equals, and these stories are among her best.

A WOMAN'S WAY.

By MRS. E. J. RICHMOND. 12mo, 72 Pages.

A new and pleasing story by this popular author.

THE OLD TAVERN.

By MARY DWINELL CHELLIS. 12mo, 72 Pages.

Another stirring Tale for this popular series.

A JOLLY TIME.

By MARY DWINELL CHELLIS. 12mo, 77 Pages.

THE AUTOBIOGRAPHY OF A BOTTLE.

By REV. B. F. HUTCHINS. 12mo, 72 Pages.

The friends of Temperance who desire to see the reform progress, and to have a literature accessible to all classes of the community, have now an opportunity to carry out their wishes. We ask all the friends of the cause to aid us in the circulation of this class of literature. Send along the dimes. Address

J. N. STEARNS, Publishing Agent,

58 Reade Street, New York.